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Vol I

TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1934

No. 551

**CEMENT MANUFACTURERS PROTECTIVE ASSOCIATION,
THE ATLAS PORTLAND CEMENT COMPANY, THE
ALLENTOWN PORTLAND CEMENT COMPANY, ET AL.,
APPELLANTS,**

vs.

THE UNITED STATES OF AMERICA

**APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF NEW YORK**

FILED JULY 24, 1934

(30,516)

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INDEX

	Original	Print
Record from the United States district court, southern district of New York.....	4	1
Bill of complaint.....	4	1
Answer	27	20
Exhibit I—Chart showing comparative yearly shipments of defendant companies.....	30	22
Exhibit II—Chart showing annual shipments of de- fendant companies.....	32	23
Exhibit III—Chart showing average cost and selling price per barrel.....	35	26
Exhibit IV—Plan, constitution, and by-laws of Cement Manufacturers Protective Association.....	123½	125
Exhibit VII—Form 25, Cement Manufacturers Pro- tective Association.....	130½	131
Exhibit VIII—Form 15, Cement Manufacturers Pro- tective Association.....	131	131

	Original	Print
Exhibit IX—Form 20, Cement Manufacturers Protective Association.....	131½	131
Exhibit X—Form 21, Cement Manufacturers Protective Association	132	132
Exhibit XI—Form 7, Cement Manufacturers Protective Association	132½	132
Exhibit XII—Form 8, Cement Manufacturers Protective Association.....	133	132
Exhibit XIII—Form 9, Cement Manufacturers Protective Association.....	133½	132
Exhibit XV—Form 1, Cement Manufacturers Protective Association.....	134	133
Exhibit XVI—Form 2, Cement Manufacturers Protective Association.....	135	134
Exhibit XVII (a)—Form 5, Cement Manufacturers Protective Association.....	136	135
Exhibit XVII (b)—Form 5, Cement Manufacturers Protective Association.....	137	136
Exhibit XVII (c)—Form 5, Cement Manufacturers Protective Association.....	137½	137
Exhibit XVIII—Form 6, Cement Manufacturers Protective Association.....	138½	138
Exhibit XIX—Form 23, Cement Manufacturers Protective Association.....	139	138
Exhibit XX—Form 12, Cement Manufacturers Protective Association.....	140	139
Exhibit XXI—Form 24, Cement Manufacturers Protective Association.....	141	139
Exhibit XXII—Form 14, Cement Manufacturers Protective Association.....	141½	140
Exhibit XXIII—Form 26, Cement Manufacturers Protective Association.....	142	140
Exhibit XXIV—Form 19, Cement Manufacturers Protective Association.....	142	141
Exhibit XXV—Form 22, Cement Manufacturers Protective Association.....	142½	142
Motion and order making Allentown Portland Cement Company and Lawrence Portland Cement Company parties defendant	144	142
Order that answer stand as answer for added defendants.,	149	143
Stipulation re hearing of cause on record in case of United States vs. Atlas Portland Cement Co. et al.....	152	144
Record from United States district court, southern district of New York in the case of United States vs. Portland Atlas Cement Co.....	154	144
Testimony of George Howard Elliot.....	155	145
Mary Belle Phalen.....	171	153
Arthur J. Whipple.....	204	169
Luther Keller.....	210	172
Eurie L. Merriman.....	218	176

INDEX

iii

	Original	Print
Testimony of Bert H. Hanby.....	222	177
Edward M. Rodrock.....	225	179
Allan P. Lockwood.....	232	182
Harry W. Gilbert.....	238	185
Joseph H. Clark.....	242	187
John H. Kelter.....	246	189
Alfred L. Lyth.....	251	191
William M. Kinney.....	258	194
Mary K. Kavanagh.....	281	204
Hugh Nawn.....	311	217
William F. Felton.....	314	219
Walter P. Wright.....	317	220
Thomas Hanrahan.....	318	220
William White.....	320	221
John O'Connell.....	321	222
Clyde C. Oakley.....	322	222
George W. Krieger, Jr.....	324	222
Lester C. Nesbit.....	325	223
John L. Shade.....	327	224
A. Lee Grover.....	330	225
Douglass Thropp.....	333	227
Mary Belle Phalen (recalled).....	337	229
Thomas F. Sullivan.....	338	229
Howard E. Church.....	343	230
Robert A. Bachur.....	345	231
Frank B. Talley.....	347	232
Rudolph Meyer.....	350	233
Solomon Holzer.....	351	234
James W. Allen.....	355	235
Edward A. Keeler.....	369	240
Charles D. Tedrow.....	373	242
Walter Lewis.....	389	250
Russell Hardy.....	395	252
Mary B. Phalen (recalled).....	400	254
Holger Struckmann.....	433	265
John P. Fernsler.....	439	268
George W. Goethals.....	467	282
Edward N. Hurley.....	475	286
Thomas Sewall Adams.....	495	294
Richard K. Meade.....	527	308
Joseph G. Breaznell.....	535	311
Albert R. Jube.....	548	315
John R. Morron.....	574	327
J. Francis Small.....	602	340
Owen H. Hess.....	605	341
Lester C. Hawk.....	609	343
Morris Fortuin.....	611	344
James W. Lauder.....	614	346
C. Raymond Hulsart.....	626	350
Walter Lewis (recalled).....	631	352
Russell Hardy (recalled).....	632	353

	Original	Print
Govt. Exhibit No. 3—Freight rates from Universal, Union Bridge, Lehigh Valley, to points in Pennsylvania	636	353
Govt. Exhibit No. 4—Freight rates from Universal, Lehigh Valley, to points in New Jersey	638	353
Govt. Exhibit No. 5—Freight rates from Universal, Union Bridge, Lehigh Valley, to points in Maryland, Delaware, and District of Columbia	639	353
Govt. Exhibit No. 6—Freight rates from Lehigh Valley, Alsen, Hudson, and Universal, to points in New York	640	363
Govt. Exhibit No. 7—Freight rates from Universal, Alsen, Hudson, Lehigh Valley, to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut	641	353
Govt. Exhibit No. 8—Freight rates from Lehigh Valley, Union Bridge, Universal, to points in Maryland, Delaware, and District of Columbia	642	353
Govt. Exhibit No. 9—Freight rates from Universal, Alsen, Hudson, Lehigh Valley, to points in New England States	643	353
Govt. Exhibit No. 10—Freight rates from Universal, Alsen, Hudson, Lehigh Valley, to points in New York	644	353
Govt. Exhibit No. 11—Freight rates from Kingsport, Universal, Fordwick, Union Bridge, Lehigh Valley, to points in Virginia	645	353
Govt. Exhibit No. 12—Freight rates from Kingsport, Universal, Fordwick, Union Bridge, Lehigh Valley, to points in West Virginia	646	353
Govt. Exhibit No. 13—Outline of a plan for a protective association of cement manufacturers	646½	353
Constitution and by-laws	648	355
Govt. Exhibit No. 14—Form 20, Cement Manufacturers Protective Association	652½	360
Govt. Exhibit No. 15—Form 21, Cement Manufacturers Protective Association	653	360
Govt. Exhibit No. 16—Form 7, Cement Manufacturers Protective Association	654	360
Govt. Exhibit No. 17—Form 8, Cement Manufacturers Protective Association	655	360
Govt. Exhibit No. 18—Form 1, Cement Manufacturers Protective Association	656½	361
Govt. Exhibit No. 19—Form 2, Cement Manufacturers Protective Association	657½	361
Govt. Exhibit No. 20—Form 3, Cement Manufacturers Protective Association	658½	362
Govt. Exhibit No. 21—Form 5, Cement Manufacturers Protective Association	659½	363
Govt. Exhibit No. 22—Form 6, Cement Manufacturers Protective Association	661	364

INDEX

v

	Original	Print
Govt. Exhibit No. 23—Form 22, Cement Manufacturers Protective Association.....	702	367
Govt. Exhibit No. 24—Form 13, Cement Manufacturers Protective Association.....	663	365
Govt. Exhibit No. 26—Contract report, September 1, 1920, Cement Manufacturers Protective Association.....	664	365
Govt. Exhibit No. 28—Form 23, Cement Manufacturers Protective Association.....	668	365
Govt. Exhibits Nos. 30 to 56—Monthly statistics from January, 1919, to March, 1921.....	675	366
Govt. Exhibit No. 57—Form 24, Cement Manufacturers Protective Association.....	702	367
Govt. Exhibit No. 58—Form 14, shipments December 1, 1920, to December, 15, 1920.....	702½	367
Govt. Exhibit No. 59—Form 25, Cement Manufacturers Protective Association.....	703	367
Govt. Exhibit No. 60—Form 15, list of unpaid accounts and bills receivable as of November 1, 1920.....	704	367
Govt. Exhibit No. 61—Form 16, summary of past-due accounts as of February 1, 1921.....	705	368
Govt. Exhibit No. 62—Form 17, summary of past-due accounts for 12 months from February 1, 1921.....	706	369
Govt. Exhibit No. 63—Form 18, accounts placed with attorneys during January, 1921.....	707	370
Govt. Exhibit No. 64—Cement Manufacturers Protective Association, form for delinquent accounts....	707½	370
Govt. Exhibit No. 65—Form 26, Cement Manufacturers Protective Association.....	708	371
Govt. Exhibit No. 66—Form 19, bags returned for year ending December 31, 1920.....	708½	371
Govt. Exhibit No. 67—Form 28, analysis of contracts as of December 1, 1920.....	709	371
Govt. Exhibit No. 68—Letter from H. M. Scott to R. E. Griffith, October 13, 1916.....	710	371
Govt. Exhibit No. 69—Letter from R. E. Griffith to C. W. Bacon, October 31, 1916.....	711	371
Govt. Exhibit No. 70—Letter from H. H. Ward to R. E. Griffith, November 2, 1916.....	712	371
Govt. Exhibit No. 71—Letter from R. T. Kyle to R. E. Griffith, November 4, 1916.....	713	371
Govt. Exhibit No. 72—Letter from R. W. Hilles to R. E. Griffith.....	715	371
Govt. Exhibit No. 73—Letter from D. H. MacFarland to R. E. Griffith, November 3, 1916.....	716	371
Govt. Exhibit No. 74—Letter from Ira L. Gilkyson to Cement Manufacturers Protective Association, November 3, 1916.....	717	371
Govt. Exhibit No. 75—Letter from Frank H. Smith to R. E. Griffith, November 3, 1916.....	718	371

	Original	Print
Govt. Exhibit No. 76—Letter from T. F. Twamley to R. E. Griffith, November 3, 1916.....	719	371
Govt. Exhibit No. 77—Letter from W. G. Dutton to R. E. Griffith, November 4, 1916.....	720	371
Govt. Exhibit No. 78—Letter from Wm. N. Beach to R. E. Griffith, November 4, 1916.....	721	371
Govt. Exhibit No. 79—Report of committee to Cement Manufacturers Protective Association, in re expense contract investigation, November 17, 1916.....	722	371
Govt. Exhibit No. 80—Ballots re extending the activities of Cement Manufacturers Protective Association	724	372
Govt. Exhibit No. 81—Letter from W. A. Holman to Mr. Gaines, September 18, 1917.....	727	374
Govt. Exhibit No. 82—Circular to members, October 5, 1917	728½	376
Govt. Exhibit No. 83—Letter from H. S. G. to H. I. Norton, November 10, 1917.....	731	378
Govt. Exhibits Nos. 84 to 86—Correspondence between H. S. Gaines and Mr. Broomall.....	732	379
Govt. Exhibit No. 87—Letter from B. L. Swett to H. S. Gaines, December 27, 1917.....	735	382
Govt. Exhibits Nos. 88 to 90—Correspondence between F. M. Coogan and H. S. Gaines.....	735½	382
Govt. Exhibit No. 91—Letter from H. S. Gaines to Albert Moyer, February 5, 1918.....	739	385
Govt. Exhibits Nos. 92 and 93—Letters from B. L. Swett to H. S. Gaines, March 26, April 1, 1918.....	739½	386
Govt. Exhibit No. 94—Letter from H. S. Gaines to Mr. Broomall May 20, 1918.....	740½	387
Govt. Exhibit No. 95—Letter from H. S. Gaines to W. D. Lober, July 2, 1918.....	741	387
Govt. Exhibit No. 96—Letter from H. S. Gaines to Frank Broomall, August 20, 1918.....	741½	387
Govt. Exhibits Nos. 97 and 98—Letters from H. S. Gaines to Harry I. Norton, August 31 and September 5, 1918.....	742½	388
Govt. Exhibits Nos. 99 and 100—Correspondence between H. S. Gaines and F. H. Kingsley.....	744	390
Govt. Exhibit No. 101—Letter from E. B. Goode, Jr., to Cement Manufacturers Protective Association, May 19, 1920.....	745½	391
Govt. Exhibit No. 102—Letter from Albert Moyer to Cement Manufacturers Protective Association, August 13, 1920.....	746½	391
Govt. Exhibit No. 103—Letter from C. Raymond Hulsart to Albert Moyer, August 16, 1920.....	747½	392
Govt. Exhibit No. 104—Letter from C. R. Hulsart to Harry I. Norton, August 16, 1920.....	748	392

INDEX

vii

	Original	Print
Govt. Exhibit No. 105—Letter from H. I. Norton to C. R. Hulsart, August 23, 1920.....	749	393
Govt. Exhibit No. 106—Letter from C. R. Hulsart to Albert Moyer, August 26, 1920.....	749½	393
Govt. Exhibit No. 107—Letter from C. R. Hulsart to Harry I. Norton, August 26, 1920.....	750½	394
Govt. Exhibits Nos. 108 to 110—Correspondence between J. T. Twamley to Cement Manufacturers Protective Association.....	751	395
Govt. Exhibit No. 111—Letter from Albert Moyer to Cement Manufacturers Protective Association, October 14, 1920.....	755	397
Govt. Exhibits Nos. 112 to 116—Correspondence between C. R. Hulsart and H. I. Norton.....	756	398
Govt. Exhibit No. 117—Minutes of meeting, January 6, 1916.....	760	401
Govt. Exhibit No. 118—Stipulation re introduction of evidence	799	419
Govt. Exhibit No. 119—Minutes of meeting, January 31, 1916.....	802	420
Govt. Exhibit No. 120—Minutes of meeting, January 31, 1916.....	826	432
Govt. Exhibit No. 121—Minutes of meeting, February 28, 1916.....	843	440
Govt. Exhibit No. 122—Minutes of meeting, February 28, 1916.....	850	444
Govt. Exhibit No. 123—Minutes of meeting, March 20, 1916	855	447
Govt. Exhibit No. 124—Minutes of meeting, March 20, 1916.....	871	454
Govt. Exhibit No. 125—Minutes of meeting, April 17, 1916	903	469
Govt. Exhibit No. 126—Minutes of meeting, April 17, 1916	909	473
Govt. Exhibit No. 127—Minutes of meeting, May 15, 1916	914	475
Govt. Exhibit No. 128—Minutes of meeting, May 15, 1916	935	484
Govt. Exhibit No. 129—Minutes of meeting, June 19, 1916	941	487
Govt. Exhibit No. 130—Minutes of meeting, June 19, 1916.....	955	494
Govt. Exhibit No. 131—Minutes of meeting, July 17, 1916	957	495
Govt. Exhibit No. 132—Minutes of meeting, July 17, 1916	958	496
Govt. Exhibit No. 133—Minutes of meeting, August 21, 1916	963	499
Govt. Exhibit No. 134—Minutes of meeting, September 18, 1916.....	964	500

	Original	Print
Govt. Exhibit No. 135—Minutes of meeting, September 18, 1916.....	980	508
Govt. Exhibit No. 136—Minutes of meeting, October 16, 1916	981	509
Govt. Exhibit No. 137—Minutes of meeting, October 16, 1916	992	515
Govt. Exhibit No. 138—Minutes of meeting, November 20, 1916.....	993	515
Govt. Exhibit No. 139—Minutes of meeting, December 15, 1916.....	994	516
Govt. Exhibit No. 140—Minutes of meeting, December 15, 1916.....	999	518
Govt. Exhibit No. 141—Minutes of meeting, January 15, 1917.....	1004	521
Govt. Exhibit No. 142—Minutes of meeting, February 19, 1917.....	1006	522
Govt. Exhibit No. 143—Minutes of meeting, February 19, 1917.....	1007	523
Govt. Exhibit No. 144—Minutes of meeting, April 4, 1917	1008	523
Govt. Exhibit No. 145—Minutes of meeting, May 21, 1917	1014	527
Govt. Exhibit No. 146—Minutes of meeting, June 18, 1917	1018	529
Govt. Exhibit No. 147—Minutes of meeting, July 16, 1917	1020	530
Govt. Exhibit No. 148—Minutes of meeting, July 16, 1917	1022	531
Govt. Exhibit No. 149—Minutes of meeting, August 6, 1917	1031	536
Govt. Exhibit No. 150—Minutes of meeting, September 17, 1917.....	1034	538
Govt. Exhibit No. 151—Minutes of meeting, October 17, 1917	1037	539
Govt. Exhibit No. 152—Minutes of meeting, October 17, 1917	1039	541
Govt. Exhibit No. 153—Minutes of meeting, November 19, 1917.....	1046	545
Govt. Exhibit No. 154—Minutes of meeting, January 21, 1918.....	1047	545
Govt. Exhibit No. 155—Minutes of meeting, February 20, 1918.....	1054	548
Govt. Exhibit No. 156—Minutes of meeting, March 18, 1918	1072	557
Govt. Exhibit No. 157—Minutes of meeting, May 14, 1918	1076	559
Govt. Exhibit No. 158—Minutes of meeting, June 18, 1918	1083	562
Govt. Exhibit No. 159—Minutes of meeting, July 16, 1918	1084	563

INDEX

ix

	Original	Print
Govt. Exhibit No. 160—Minutes of meeting, September 17, 1918.....	1088	565
Govt. Exhibit No. 161—Minutes of meeting, October 15, 1918	1097	569
Govt. Exhibit No. 162—Minutes of meeting, November 19, 1918.....	1108	573
Govt. Exhibit No. 163—Minutes of meeting, January 23, 1919.....	1123	580
Govt. Exhibit No. 164—Minutes of meeting, February 20, 1919.....	1133	585
Govt. Exhibit No. 165—Minutes of meeting, March 20, 1919	1145	590
Govt. Exhibit No. 166—Minutes of meeting, April 17, 1919	1154	594
Govt. Exhibit No. 168—Minutes of meeting, July 17, 1919	1161	597
Govt. Exhibit No. 170—Minutes of meeting, October 16, 1919	1165	599
Govt. Exhibit No. 171—Minutes of meeting, January 15, 1920.....	1168	600
Govt. Exhibit No. 172—Minutes of meeting, February 27, 1920.....	1171	601
Govt. Exhibit No. 173—Minutes of meeting, March 18, 1920	1173	602
Govt. Exhibit No. 174—Minutes of meeting, April 29, 1920	1180	605
Govt. Exhibit No. 176—Minutes of meeting, September 23, 1920.....	1185	608
Govt. Exhibit No. 177—Minutes of meeting, October 24, 1920	1190	610
Govt. Exhibit No. 178—Minutes of meeting, November 18, 1920.....	1195	612
Govt. Exhibit No. 179—Minutes of meeting, December 14, 1920.....	1199	614
Govt. Exhibit No. 180—Minutes of meeting, December 14, 1920.....	1202	616
Govt. Exhibit No. 181—Minutes of meeting, January 20, 1921.....	1210	620
Govt. Exhibit No. 182—Minutes of meeting, February 17, 1921.....	1223	626
Govt. Exhibit No. 184—Minutes of meeting, April 21, 1921	1227	627
Govt. Exhibit No. 185—Minutes of meeting, July 21, 1921	1229	628
Govt. Exhibits Nos. 186 to 189—Correspondence between E. M. Roderick and R. E. Griffith.....	1246½	628
Govt. Exhibits Nos. 190 to 192—Correspondence between H. S. Gaines and R. E. Griffith.....	1250	631
Govt. Exhibits Nos. 193 to 195—Correspondence between E. P. Comer and Bath Portland Cement Co....	1251½	632

	Original	Print
Govt. Exhibit No. 196—Letter from Bath Portland Cement Co. to C. S. Nellis.....	1254	635
Govt. Exhibit No. 197—Letter from Bath Portland Cement Co. to E. P. Comer, October 2, 1920.....	1254½	635
Govt. Exhibit No. 198—Letter from W. G. Dutton to salesmen, December 4, 1920.....	1255	636
Govt. Exhibit No. 199—Letter from J. W. Stinson to Manchester and Hudson Co., December 31, 1919....	1256	637
Govt. Exhibit No. 200—Letter to B. F. Affleck, July 5, 1918.....	1259	637
Govt. Exhibits Nos. 204 to 215—Circular letters to members	1261½	639
Govt. Exhibit No. 216—Letter from J. F. Lenning to Cement Manufacturers Protective Association, September 8, 1919.....	1268½	645
Govt. Exhibits Nos. 217 to 219—Correspondence between G. F. Bayle and R. E. Griffith.....	1269	645
Govt. Exhibit No. 220—Telegram from Glens Falls Portland Cement Co. to Cement Manufacturers Protective Association, October 17, 1919.....	1271	647
Govt. Exhibit No. 221—Letter from Archibald Cox to H. S. Gaines, October 21, 1919.....	1271½	647
Govt. Exhibits Nos. 222 and 223—Correspondence between R. E. Griffith and G. S. Bayle.....	1272½	648
Govt. Exhibit No. 224—Letter from R. E. Griffith to C. W. Bacon, February 18, 1916.....	1274	649
Govt. Exhibit No. 225—Letter to F. W. Kelley, February 18, 1916.....	1274½	649
Govt. Exhibit No. 226—Letter from Joseph Brobston to R. E. Griffith, March 25, 1916.....	1275½	650
Govt. Exhibit No. 227—Letter from M. S. Ackerman to R. E. Griffith, March 1, 1916.....	1276½	651
Govt. Exhibit No. 228—Letter from C. W. B. to W. D. Lober, May 22, 1917.....	1277½	651
Govt. Exhibit No. 229—Letter from W. A. Holman to Mr. Gaines, February 1, 1918.....	1278½	652
Govt. Exhibit No. 230—Letter from L. A. C. to R. E. Griffith, May 4, 1916.....	1279½	653
Govt. Exhibit No. 231—Letter from R. E. Griffith to L. A. Cover, May 6, 1916.....	1280½	654
Govt. Exhibit No. 232—Letter from H. S. Gaines to W. A. Holman, February 28, 1919.....	1281½	654
Govt. Exhibit No. 233—Letter from H. S. Gaines to E. R. Stapleton, January 27, 1920.....	1282	655
Govt. Exhibit No. 234—Letter from W. N. Beach to G. F. Bayle, May 14, 1918.....	1282½	655
Govt. Exhibit No. 235—Letter from W. S. Mallory to A. C. Steece, December 31, 1915.....	1283½	656
Govt. Exhibit No. 236—Letter from Cement Manufacturers Protective Association to Richard Hardy, January 21, 1916.....	1288	660

Govt. Exhibit No. 237—Letter from Cement Manufacturers Protective Association to W. P. Corbett, April 10, 1916.....	1292	661
Govt. Exhibit No. 238—Letter from W. D. Lober to J. K. Barbour, May 7, 1917.....	1292½	662
Govt. Exhibit No. 239—Letter from H. S. Gaines to Archibald Cox, November 29, 1918.....	1293	662
Govt. Exhibits Nos. 240 and 241—Correspondence between H. S. Gaines and J. J. Mathes.....	1294	663
Govt. Exhibit No. 242—Plant capacity Portland Cement Association.....	1296	664
Govt. Exhibit No. 243—Trade practices in the cement industry, January, 1919.....	1297	664
Govt. Exhibit No. 244—Trade practices in the cement industry, 1916.....	1317	664
Govt. Exhibit No. 245—Report of the committee on trade conditions.....	1338	664
Govt. Exhibit No. 246—Letter from P. H. Wilson to J. K. Barbour, December 24, 1914.....	1358	665
Govt. Exhibit No. 247—Letter from Security Cement & Lime Co. to P. H. Wilson, January 2, 1915.....	1359	666
Govt. Exhibit No. 248—Letter from J. P. Beck to J. K. Barbour, June 24, 1916.....	1359½	666
Govt. Exhibit No. 249—Letter from Security Cement & Lime Company to J. P. Beck, July 3, 1916.....	1360½	667
Govt. Exhibit No. 250—Letter from Cement Manufacturers Protective Association to C. H. De Woody, December 17, 1917.....	1361	667
Govt. Exhibit No. 251—Reports of member companies.....	1361½	668
Govt. Exhibit No. 252—Telegram, De Woody to Bacon.....	1362	668
Govt. Exhibit No. 253—Letter from W. M. Kinney to A. D. Naylor, December 1, 1919.....	1363	669
Govt. Exhibit No. 254—Letter from W. M. Kinney to A. D. Naylor, August 30, 1920.....	1364	669
Govt. Exhibit No. 255—Letter from H. E. Hilts to L. A. Cover, January 30, 1918.....	1364½	670
Govt. Exhibit No. 256—Letter from R. E. Griffith to Felton Construction Co., August 28, 1919.....	1366	670
Gov. Exhibit No. 257—Letter from J. F. Twamley to Felton Construction Company.....	1367	670
Govt. Exhibit No. 258—Letter from B. L. Swett to W. F. Felton, September 4, 1919.....	1368	670
Govt. Exhibit No. 259—Letter from Vulcanite Portland Cement Co. to Felton Construction Co., September 18, 1919.....	1369	670
Govt. Exhibit No. 260—Letter from G. H. Elliott to Felton Construction Co., August 28, 1919.....	1370	670
Govt. Exhibit No. 317—Letter from P. I. Halecombe to highway commissioner of New Jersey, May 17, 1919.....	137½	670

	Original	Print
Govt. Exhibit No. 318—Letter from T. F. McBride to State highway comm. of New Jersey, May 17, 1919..	1373	670
Govt. Exhibit No. 319—Letter from T. G. Barr to State highway comm. of New Jersey, May 16, 1919..	1374	670
Govt. Exhibit No. 320—Letters from E. P. Williams to R. H. Exton, May 16, 1919.....	1376	670
Govt. Exhibit No. 321—Letter from Manning, Freeman & Son to State highway comm. of New Jersey, May 17, 1918.....	1378	671
Govt. Exhibit No. 322—Letter from Manning, Freeman & Son to State highway comm., May 17, 1919.....	1381	672
Govt. Exhibit No. 324—Letter from R. T. Cope to W. G. Thompson, March 24, 1919.....	1383	673
Govt. Exhibit No. 325—Letter from T. M. Coogan to W. G. Thompson, March 17, 1919.....	1383½	673
Govt. Exhibit No. 326—Circular letter from W. G. Thompson, March 12, 1919.....	1385	675
Govt. Exhibit No. 327—Letter from W. A. Holman to W. G. Thompson, March 21, 1919.....	1385½	675
Govt. Exhibit No. 328—Letter from J. F. Twanley to W. G. Thompson, March 17, 1919.....	1387	676
Govt. Exhibit No. 329—Correspondence between W. G. Thompson and R. W. Hilles.....	1388	677
Govt. Exhibit No. 330—Letter from H. M. Scott to W. G. Thompson, March 19, 1919.....	1394	680
Govt. Exhibit No. 331—Letters from R. E. Griffith to W. G. Thompson, March 17 and March 22, 1919.....	1397	680
Govt. Exhibit 332—Letter from H. H. Ward to W. G. Thompson, March 21, 1919.....	1398½	681
Govt. Exhibit No. 333—Letter from Frank H. Smith to W. G. Thompson, March 15, 1919.....	1399	682
Govt. Exhibit No. 334—Letter from B. L. Swett to State highway comm. of New Jersey, March 18, 1919.	1400	682
Govt. Exhibit No. 335—Letter from T. O. Bretherton to W. G. Thompson, March 17, 1919.....	1401	683
Govt. Exhibit No. 336—Letter from Charles H. Cox to W. G. Thompson, March 17, 1919.....	1402	684
Govt. Exhibit No. 337—Letter from Albert Moyer to State highway comm. of New Jersey, March 18, 1919.	1404	684
Govt. Exhibit No. 338—Letter from Albert Moyer to L. C. Morton, March 21, 1919.....	1405	685
Govt. Exhibit No. 339—Letter from F. A. Sweeney to State highway comm. of New Jersey, March 16, 1921.	1406½	685
Govt. Exhibit No. 340—Letter from E. P. Williams to State highway comm. of New Jersey, March 21, 1921.	1407	685
Govt. Exhibit No. 341—Letter from T. G. Barr to State highway comm. of New Jersey, March 17, 1921.....	1410	685
Govt. Exhibit No. 342—Letter from A. J. Stanford to A. Lee Grover, March 18, 1921.....	1412½	687
Govt. Exhibit No. 343—Letter from G. M. Friese to T. J. Wasser, March 15, 1921.....	1413½	687

INDEX

Xiii

Original Print

Govt. Exhibit No. 344—E. Jaynes to New Jersey State highway department, March 18, 1921.....	1414	688
Govt. Exhibit No. 345—Letter from J. K. Barbour to J. E. Thropp, May 18, 1916.....	1418	688
Govt. Exhibit No. 346—Contract between Saxton Supply Store and J. E. Thropp.....	1421	689
Govt. Exhibit No. 347—Letter from B. L. Smith to Saxton Supply Store, June 3, 1916.....	1423	689
Govt. Exhibit No. 348—Bid, Allentown Portland Cement Co. to Boston transit commission.....	1424	689
Govt. Exhibit No. 349—Bid, Lehigh Portland Cement Co. to Boston transit commission.....	1425½	691
Govt. Exhibit No. 350—Bid, Alpha Portland Cement Co. to Boston transit commission.....	1427	692
Govt. Exhibit No. 351—Bid, Coplay Cement Manufacturing Co. to Boston transit commission.....	1430	695
Govt. Exhibit No. 352—Bid, Atlas Portland Cement Co. to Boston transit commission.....	1431½	696
Govt. Exhibit No. 353—Letter from Ira L. Gilkyson to Cement Manufacturers Protective Association, March 17, 1916.....	1433	698
Govt. Exhibit No. 354—Letter from Albert Moyer to Cement Manufacturers Protective Association, March 17, 1916.....	1433½	698
Govt. Exhibit No. 355—Letter from Cement Manufacturers Protective Association to Joseph Brobston, March 21, 1916.....	1434½	699
Govt. Exhibit No. 356—Letter from R. W. Hilles to Cement Manufacturers Protective Association, April 4, 1916.....	1435	699
Govt. Exhibit No. 357—Letter from H. H. Ward to C. W. Bacon, March 30, 1916.....	1435½	699
Govt. Exhibit No. 358—Letter from Cement Manufacturers Protective Association to H. H. Ward, March 31, 1916.....	1436	700
Govt. Exhibits Nos. 359, 360, 361—Correspondence between Albert Moyer and Cement Manufacturers Protective Association.....	1436½	700
Govt. Exhibit No. 362—Letter from F. M. Coogan to C. W. Bacon, November 7, 1916.....	1438	701
Govt. Exhibit No. 363—Letter from B. L. Swett to H. S. Gaines, November 16, 1917.....	1439	702
Govt. Exhibit No. 364—Letter from F. M. Coogan to Sales department, August 24, 1918.....	1439½	702
Govt. Exhibit No. 365—Letter from F. H. Smith to H. S. Gaines, July 12, 1918.....	1440½	703
Govt. Exhibit No. 366—Letter from F. A. Weibel to Cement Manufacturers Protective Association, April 25, 1918.....	1441½	704

	Original	Print
Govt. Exhibit No. 367—Letter from R. E. Griffith to F. H. Smith, March 5, 1919.....	1442	704
Govt. Exhibits Nos. 368, 369, 370, 371, 372—Letters from D. H. MacFarland to C. W. Bacon.....	1442½	705
Govt. Exhibit No. 374—Statement of cement produced by member companies, 1918-1920.....	1445½	706
Govt. Exhibit No. 373a—Statement of cement produced by member companies, 1915-1917.....	1446	706
Govt. Exhibit No. 376—Statement showing business transacted by members of the Cement Manufacturers Protective Association, 1916-1920.....	1447½	706
Govt. Exhibit No. 375a—Statement showing business transacted by all companies reporting to Cement Manufacturers Protective Association, 1916-1920....	1448	706
Govt. Exhibit No. 377—Statement showing ratio between business transacted by member companies and total production by all companies, 1916-1920.....	1449	706
Govt. Exhibit No. 378—Statement showing ratio of shipments of members of Cement Manufacturers Protective Association to total shipments, 1915-1917.	1449½	706
Govt. Exhibit No. 379—Statement showing ratio of shipments of members of Cement Manufacturers Protective Association to total shipments, 1918-1920....	1450	706
Govt. Exhibit No. 380—Shipping ratios, 1915-1920....	1450½	706
Govt. Exhibit No. 381—Cement shipped by defendant companies, 1916-1920.....	1451	706
Govt. Exhibit No. 382—Shipping ratios, 1916-1920....	1451½	706
Govt. Exhibit No. 383—Shipments for other mills, 1918-1920	1452	706
Govt. Exhibit No. 384—Shipments from one mill to another, 1918-1920.....	1452	706
Govt. Exhibit No. 385—Annual capacities of reporting members, January, 1917.....	1453	706
Govt. Exhibit No. 386—Annual capacities, 1920.....	1453½	708
Govt. Exhibit No. 387—Annual capacities of defendant companies, 1919-1921.....	1454	706
Govt. Exhibit No. 388—Capacity of mills as furnished by defendants and relative capacity as computed by the Government.....	1454½	706
Govt. Exhibit No. 389—Statement showing business actually received as compared to that which would have been received on a relative capacity basis, 1920.	1455	706
Govt. Exhibit No. 390—Statement showing business actually received as compared to that which would have been received on a relative capacity basis, 1916-1920	1455½	706
Govt. Exhibit No. 391—Ratio of cement produced to capacity, 1916-1920.....	1456	706
Govt. Exhibit No. 392—Annual capacity of 1920 as compared with production.....	1456½	706

INDEX

XV

Original Print

Govt. Exhibit No. 393—Commitments and unshipped balances on contracts.....	1457	706
Govt. Exhibit No. 394—Total cement shipped by defendants, first eight months 1920, September, October, and November, 1920, and first 11 months 1920...	1457½	706
Govt. Exhibit No. 395—Number of new contracts written and cancelled, September to December, 1920....	1458	706
Govt. Exhibit No. 396a—New contracts from September 1 to December 31, 1920.....	1459	706
Govt. Exhibit No. 397a—Cancellations from September 1 to December 31, 1920.....	1459½	706
Govt. Exhibit No. 398—Summary of contracts for first eleven months of 1920.....	1460½	706
Govt. Exhibit No. 399—Statement showing annual finished cement capacity, capacity for eight months, shipments, etc., 1920.....	1461	706
Govt. Exhibit No. 400—Cement shipped during first eight months of 1919.....	1461½	706
Govt. Exhibit No. 403a—Statement of unshipped balances, cancellations, etc., from September 1 to November 30, 1920.....	1462	706
Govt. Exhibit 404a—Statement of unshipped balances, etc., as of September 1, 1920.....	1462½	706
Govt. Exhibit No. 405—Monthly summary of contracts for first two months of 1919.....	1463	706
Govt. Exhibit No. 406—Summary of contracts for first three months of 1919.....	1463	706
Govt. Exhibit No. 407—Summary of contracts for first four months of 1919.....	1463½	706
Govt. Exhibit No. 408—Summary of contracts for first five months of 1919.....	1463½	706
Govt. Exhibit No. 409—Summary of contracts for first six months of 1919.....	1464	706
Govt. Exhibit No. 410—Summary of contracts for first seven months of 1919.....	1464	706
Govt. Exhibit No. 411—Summary of contracts for first eight months of 1919.....	1464½	706
Govt. Exhibit No. 412—Summary of contracts for first nine months of 1919.....	1464½	706
Govt. Exhibit No. 413—Summary of contracts for first ten months of 1919.....	1465	706
Govt. Exhibit No. 414—Summary of contracts for first eleven months of 1919.....	1465	706
Govt. Exhibit No. 415—Summary of contracts for twelve months, 1919.....	1465½	706
Govt. Exhibit No. 416—Summary of contracts for first two months, 1920.....	1465½	706
Govt. Exhibit No. 417—Summary of contracts for first three months, 1920.....	1466	706

	Original	Print
Govt. Exhibit No. 418—Summary of contracts for first four months, 1920.....	1403	706
Govt. Exhibit No. 419—Summary of contracts for first five months, 1920.....	1406½	706
Govt. Exhibit No. 420—Summary of contracts for first six months, 1920.....	1406½	706
Govt. Exhibit No. 421—Summary of contracts for first seven months, 1920.....	1467	706
Govt. Exhibit No. 422—Summary of contracts for first eight months, 1920.....	1467	706
Govt. Exhibit No. 423—Summary of contracts for first nine months, 1920.....	1467½	706
Govt. Exhibit No. 424—Summary of contracts for first ten months, 1920.....	1467½	706
Govt. Exhibit No. 425—Summary of contracts for first eleven months, 1920.....	1468	706
Govt. Exhibit No. 426—Summary of contracts for twelve months, 1920.....	1468	706
Govt. Exhibit No. 427—Summary of contracts for first two months, 1921.....	1468½	706
Govt. Exhibit No. 428—Summary of contracts for first three months, 1921.....	1468½	706
Govt. Exhibit No. 429—Summary of contract shipping points as of January 1, 1917.....	1469	706
Govt. Exhibits Nos. 513 and 514—Letters from W. S. Mallory to J. R. Morron, January 9, 1913, January 30, 1913.....	1471½	707
Govt. Exhibit No. 515—Letter from J. R. Morron to W. H. Harding.....	1473	708
Govt. Exhibit No. 516—Letter from J. R. Morron to G. F. Baker, Jr., December 29, 1913.....	1473½	708
Govt. Exhibits Nos. 517, 518, 519—Letters from J. R. Morron to E. M. Hagar.....	1475	710
Govt. Exhibits No. 520—Letter from J. R. Morron to J. W. Fuller, May 19, 1924.....	1476½	711
Govt. Exhibits Nos. 521, 522—Correspondence between J. R. Morron and B. F. Affleck.....	1477½	711
Govt. Exhibit No. 523—Letter from J. R. Morron to MacFarland and Kimball, March 30, 1915.....	1478½	712
Govt. Exhibit No. 524—Personal note, H. G. Trexler to J. R. Morron, October 29, 1915.....	1479	713
Govt. Exhibits Nos. 525, 526—Correspondence between H. C. Trexler and D. H. MacFarland.....	1479	713
Govt. Exhibit No. 527—Letter from J. C. Larimer to D. H. MacFarland, November 13, 1915.....	1480	714
Govt. Exhibits Nos. 528 and 529—Correspondence between J. R. Morron and J. A. Horner.....	1481½	715
Govt. Exhibit No. 530—Letter from Coogan to MacFarland, November 16, 1915.....	1428½	715
Govt. Exhibit No. 531—Minutes of meeting, November 19, 1915.....	1483½	716

INDEX

xvii

	Original	Print
Govt. Exhibit No. 532—Letter from J. R. Morron to Mr. MacFarland, November 28, 1915.....	1484	717
Govt. Exhibit No. 533—Memorandum from D. H. MacFarland, December 1, 1915.....	1485½	718
Govt. Exhibit No. 534—Memorandum of telephone conversation between J. R. Morron and W. S. Mallory, December 4, 1915.....	1486	719
Govt. Exhibit No. 535—Letter from C. A. Kimball to D. H. MacFarland, January 11, 1916.....	1487	719
Govt. Exhibit No. 536—Letter from W. S. Mallory to J. R. Morron, January 17, 1916.....	1488	720
Govt. Exhibit No. 537—Letter from D. H. MacFarland to W. N. Miner, February 1, 1916.....	1489	721
Govt. Exhibits Nos. 538 and 539—Correspondence between W. N. Beach and J. R. Morron.....	1490½	722
Govt. Exhibit No. 540—Letter from Albert Moyer to D. H. MacFarland, May 3, 1916.....	1491½	723
Govt. Exhibits Nos. 541 and 542—Correspondence between B. F. Affleck and J. R. Morron.....	1493	724
Govt. Exhibit No. 543—Tabulation of transactions of Cement Manufacturers Protective Association.....	1494	725
Govt. Exhibit No. 544—Stipulation re Hurry & Seaman patent, license agreements, and association of licensed cement manufacturers.....	1498	725
Govt. Exhibit No. 545—License agreement between the Atlas Portland Cement Co. and North American Portland Cement Co., December 3, 1906.....	1500	727
Govt. Exhibit No. 546—License agreement between the North American Portland Cement Co. and the Lehigh Portland Cement Co., December 3, 1906.....	1523	738
Govt. Exhibit No. 547—License agreement between the North American Portland Cement Co. and the Dexter Portland Cement Co., December 31, 1907.....	1534	744
Govt. Exhibit No. 548—Articles of agreement of the Association of Licensed Cement Manufacturers....	1547	750
Govt. Exhibit No. 549—Agreement between the North American Portland Cement Co. and the Atlas Portland Cement Co., January 30, 1909.....	1559	756
Govt. Exhibit No. 550—Cement prices to steam railroads	1601	776
Govt. Exhibits Nos. 551 and 552—Correspondence between J. R. Morron and W. N. Beach.....	1602	777
Govt. Exhibit No. 553—Stipulation re minutes of Eastern Cement Association.....	1603	777
Govt. Exhibit No. 554—Minutes of meetings, Eastern Cement Association.....	1604	778
Constitution and by-laws.....	1611	784
Govt. Exhibits Nos. 556 to 559—Correspondence between E. Meyer and W. S. Mallory.....	1637½	841

	Original	Print
Govt. Exhibit No. 560—Letter from J. B. Wright to Amsterdam Bldg. Co., January 27, 1913.....	1640	812
Govt. Exhibit No. 561—Letter from S. Churchill to Amsterdam Bldg. Co., January 20, 1913.....	1642	814
Govt. Exhibit No. 562—Letter from C. R. Parks to T. H. Maxwell, January 18, 1913.....	1643	814
Govt. Exhibit No. 563—Letter from Albert Moyer to Amsterdam Bldg. Co., December 21, 1921.....	1643½	815
Govt. Exhibit No. 564—Letter from H. H. Ward to Amsterdam Bldg. Co., December 20, 1912.....	1646	816
Govt. Exhibit No. 566—Letter from the Edison Portland Cement Co. to Amsterdam Bldg. Co., January 8, 1912	1649½	817
Govt. Exhibit No. 567—Letter from C. T. Taylor to Amsterdam Bldg. Co., January 8, 1913.....	1651	818
Govt. Exhibit No. 568—Letter from C. R. Parks to Amsterdam Bldg. Co., December 23, 1912.....	1652	819
Govt. Exhibit No. 569—Letter from F. W. Douglas to Amsterdam Bldg. Co., December 6, 1912.....	1654	820
Govt. Exhibit No. 570—Letter from H. A. Brown to Amsterdam Bldg. Co., December 24, 1912.....	1655½	821
Govt. Exhibit No. 571—Sales contract form of Atlas Portland Cement Co.....	1660	821
Govt. Exhibit No. 572—Sales contract form of Allentown Portland Cement Co.....	1662½	824
Govt. Exhibit No. 573—Memorandum of agreement, Atlas Portland Cement Co.....	1665	827
Govt. Exhibit No. 574—Memorandum of agreement, Bath Portland Cement Co.....	1667½	830
Govt. Exhibit No. 575—Memorandum of agreement, Coplay Cement Mfg. Co.....	1669½	832
Govt. Exhibit No. 576—Contract between Dexter Portland Cement Co. and Ruffin and Payne, August 31, 1918	1672	834
Govt. Exhibit No. 677—Contract between the Edison Portland Cement Co. and Watertown Coal Co., April 14, 1920.....	1674	837
Govt. Exhibit No. 578—Sales contract form of Glens Falls Portland Cement Co.....	1676	839
Govt. Exhibit No. 579—Contract between Giant Portland Cement Co. and E. M. Rodrock Co., February 4, 1921	1678½	842
Govt. Exhibit No. 580—Contract form of Hercules Portland Cement Co.....	1681½	845
Govt. Exhibit No. 581—Contract between Knickerbocker Portland Cement Co. and Manchester and Hudson Co., December 30, 1919.....	1683	847
Govt. Exhibit No. 582—Contract form of The Lawrence Cement Co.....	1684½	849

INDEX

xix

	Original	Print
Govt. Exhibit No. 583—Contract between Lehigh Portland Cement Co. and E. M. Rodrock Co., December 31, 1919.....	1686½	851
Govt. Exhibit No. 584—Letter from J. W. Ramsay to The C. H. Spring Co., April 1, 1920.....	1688½	853
Govt. Exhibit No. 585—Letter from T. O. Bretherton to B. F. Marsh Co., February 17, 1920.....	1690½	855
Govt. Exhibit No. 586—Quotation form of Pennsylvania Cement Co.....	1692½	857
Govt. Exhibit No. 587—Letter from L. C. Morton to Fred Kilgus, March 8, 1918.....	1690½	859
Govt. Exhibit No. 588—Letter from J. S. Clark to T. W. Perry, January 2, 1920.....	1696½	861
Govt. Exhibit No. 589—Letter from Vulcanite Portland Cement Co. to E. M. Rodrock, December 10, 1919....	1698½	863
Govt. Exhibit No. 590—Tabulation of clauses of contract forms.....	1701½	866
Govt. Exhibit No. 591—Quotation form of the Atlas Portland Cement Co.....	1733	896
Govt. Exhibit No. 592—Quotation form of the Allentown Portland Cement Co.....	1735½	899
Govt. Exhibit No. 593—Quotation form of the Alpha Portland Cement Co.....	1738	901
Govt. Exhibit No. 594—Letter from J. F. Twamley to A. E. Stover, June 29, 1918.....	1740	903
Govt. Exhibit No. 595—Back of letterhead of Bath Portland Cement Co.....	1742½	905
Govt. Exhibit No. 596—Letter from J. F. Twamley to Windsor Cement Co., March 17, 1919.....	1744	906
Govt. Exhibit No. 597—Quotation form of the Dexter Portland Cement Co.....	1746½	908
Govt. Exhibit No. 598—Letter from A. C. Bruff to G. W. Klerstead, January 18, 1919.....	1748½	911
Govt. Exhibit No. 599—Letter from R. E. Griffith to E. M. Rodrock Co., May 27, 1919.....	1750½	912
Govt. Exhibit No. 600—Quotation form of Hercules Cement Corporation.....	1752½	914
Govt. Exhibit No. 602—Letter from F. H. Smith to Windsor Cement Co., November 15, 1919.....	1755½	917
Govt. Exhibit No. 603—Letter from J. A. Gray to Manchester & Hudson Co., November 24, 1920.....	1756½	917
Govt. Exhibit No. 604—Quotation form of Phoenix Portland Cement Co.....	1758	919
Govt. Exhibit No. 605—Quotation form of Nazareth Cement Co.....	1760	920
Govt. Exhibit No. 606—Quotation form of Penn-Allen Cement Co.....	1762½	923
Govt. Exhibit No. 608—Quotation form of Security Cement & Lime Co.....	1766½	925

	Original	Print
Govt. Exhibit No. 609—Quotation form of Vulcanite Portland Cement Co.....	1770½	928
Govt. Exhibit No. 610—Quotation form of Alpha Portland Cement Co.....	1772½	930
Govt. Exhibit No. 611—Quotation form of The Atlas Portland Cement Co.....	1774	932
Govt. Exhibit No. 612—Quotation form of Allentown Portland Cement Co.....	1777	934
Govt. Exhibit No. 613—Quotation form of Bath Portland Cement Co.....	1779	936
Govt. Exhibit No. 614—Quotation form of Coplay Cement Mfg. Co.....	1781	938
Govt. Exhibit No. 615—Quotation form of Dexter Portland Cement Co.....	1783	940
Govt. Exhibit No. 616—Quotation form of Edison Portland Cement Co.....	1785	942
Govt. Exhibit No. 617—Letter from S. N. Peters to E. M. Rodrock, December 2, 1920.....	1787	944
Govt. Exhibit No. 618—Quotation form of Glens Falls Portland Cement Co.....	1789	945
Govt. Exhibit No. 619—Quotation form of Hercules Cement Corporation.....	1793	947
Govt. Exhibit No. 620—Letter from W. M. Floring to Windsor Cement Co., August 12, 1919.....	1794½	948
Govt. Exhibit No. 621—Letter from F. H. Smith to J. P. Hall, March 27, 1917.....	1796	950
Govt. Exhibit No. 622—Quotation form of Lehigh Portland Cement Co.....	1797	950
Govt. Exhibit No. 623—Quotation form of Nazareth Cement Co.....	1799	952
Govt. Exhibit No. 624—Quotation form of Penn-Allen Cement Co.....	1801½	954
Govt. Exhibit No. 625—Quotation form of Phoenix Portland Cement Co.....	1803½	955
Govt. Exhibit No. 626—Quotation form of Security Cement and Lime Co.....	1805½	957
Govt. Exhibit No. 627—Letter from Albert Moyer to E. M. Rodrock Co., November 5, 1920.....	1808½	960
Govt. Exhibit No. 628—Tabulation of quotation forms.	1811	961
Govt. Exhibit No. 629—Quotation form of Alpha Portland Cement Co.....	1812½	962
Govt. Exhibit No. 631—Cement Manufacturers Protective Association production statistics for month of February, 1916.....	1815	963
Govt. Exhibit No. 632—Cement Manufacturers Protective Association production statistics for month of March, 1915.....	1815½	963
Govt. Exhibit No. 633—Cement Manufacturers Protective Association production statistics for month of April, 1916.....	1816	963

INDEX

xxi

	Original	Print
Govt. Exhibits Nos. 666 to 674—Production, monthly and annual, for all companies, 1913 to 1921.....	1817	963
Govt. Exhibit No. 675A—Dates when changes were made effective by each company in the base price used by it in figuring most of its quotations, Lehigh Valley	1820½	963
Govt. Exhibit No. 676—Dates when changes were made effective by each company in the base price used by it in figuring most of its quotations, Hudson River	1823	963
Govt. Exhibit No. 677—Annual productive capacity of mills, January 1, 1917.....	1825	963
Govt. Exhibit No. 678—Tabulation of average cost of bags sold by defendant companies, 1916-1921.....	1826½	964
Govt. Exhibit No. 679—Tabulation of amounts charged for each bag by defendant companies, January 1, 1919, to April 1, 1921.....	1827	965
Govt. Exhibit No. 680—Letter from C. N. Apgar to J. J. Collister, April 21, 1919.....	1829	966
Govt. Exhibit No. 681—Letter from secretary to W. E. St. Clair, April 25, 1919.....	1830	966
Govt. Exhibit No. 682—Letter from H. S. Gaines to F. M. Coogan, September 4, 1918.....	1830½	967
Govt. Exhibit No. 683—Letter from F. M. Coogan to H. S. Gaines, September 5, 1918.....	1831	967
Govt. Exhibit No. 684—Letter from W. F. Clark to H. S. Gaines, September 5, 1918.....	1831½	968
Govt. Exhibit No. 685—Letter from Security Cement & Lime Co. to W. F. Clark.....	1832	968
Govt. Exhibit No. 686—Letter from W. F. Clark to P. C. Somervell, June 2, 1915.....	1832½	969
Govt. Exhibit No. 687—Letter to W. E. Miner, March 1, 1916.....	1833	969
Govt. Exhibit No. 688—Letter from W. Young to Mr. Kimball, March 16, 1916.....	1834	970
Govt. Exhibit No. 689—Letter from F. M. Coogan to C. W. Bacon, May 18, 1917.....	1835	971
Govt. Exhibit No. 690—Circular letter from C. W. Bacon to members.....	1836	972
Govt. Exhibit No. 691—Letter from F. M. Coogan to J. J. Collister, August 23, 1920.....	1837	972
Govt. Exhibits Nos. 692 and 693—Circular letters to members, August 25 and August 27, 1920.....	1838	973
Govt. Exhibit No. 694—Letter from sales department to Mr. Stinson, August 27, 1920.....	1839½	975
Govt. Exhibit No. 695—Letter from J. W. Stinson to W. M. Floring, August 26, 1920.....	1840	975
Govt. Exhibit No. 696—Letter from Bath Portland Cement Co. to E. C. Schaffer, March 18, 1921.....	1840½	976

	Original	Print
Govt. Exhibit No. 697—Letter from C. N. Apgar to Security Cement and Lime Co., February 25, 1916...	1841½	977
Govt. Exhibit No. 698—Letter from C. N. Apgar to Cement Manufacturers Protective Association, December 20, 1920.....	1842	977
Govt. Exhibit No. 699—Letter from J. W. Stinson to Knickerbocker Portland Cement Company, Inc., December 10, 1920.....	1842½	978
Govt. Exhibit No. 700—Letter from sales department to Mr. Stinson, December 13, 1920.....	1843½	978
Govt. Exhibit No. 701—Letter from F. M. Coogan to C. W. Bacon, June 16, 1917.....	1844	979
Govt. Exhibits Nos. 702 and 703—Correspondence between J. P. Beck and C. W. Bacon.....	1845	979
Govt. Exhibit No. 704—Letter from D. H. MacFarland to Mr. Gowen, November 6, 1916.....	1846	980
Govt. Exhibit No. 705—Circular letter to members, December 5, 1916.....	1846½	980
Govt. Exhibit No. 706—Circular letter to members from W. D. Lober, January 22, 1916.....	1847	981
Govt. Exhibits Nos. 707 to 710—Correspondence between A. D. Naylor and H. S. Gaines.....	1848	981
Govt. Exhibit No. 711—Letter from R. W. Hilles to Cement Manufacturers Protective Association, March 17, 1919.....	1850	983
Govt. Exhibit No. 712—Letter from C. W. Bacon to L. A. Cover, March 30, 1916.....	1850½	983
Govt. Exhibit No. 713—Letter from sales manager to W. L. Sperry, April 20, 1916.....	1851	984
Govt. Exhibit No. 714—Letter from W. L. Sperry to J. K. Barbour.....	1851½	984
Govt. Exhibit No. 715—Letter from Security Cement & Lime Co. to W. L. Sperry, April 22, 1916.....	1852½	985
Govt. Exhibit No. 716—Letter from Cement Manufacturers Protective Association to A. V. Le Masters, July 19, 1917.....	1853	985
Govt. Exhibit No. 717—Letter from J. J. Porter to Cement Manufacturers Protective Association, August 20, 1918.....	1853½	985
Govt. Exhibit No. 718—Letter from L. A. C. to B. T. Scott, April 1, 1915.....	1854½	986
Govt. Exhibit No. 719—Letter from E. R. Stapleton to L. A. Cover, April 7, 1915.....	1855	986
Govt. Exhibits Nos. 720 and 721—Letters from R. E. Griffith to C. W. Bacon, April 14 and April 21, 1916..	1855½	986
Govt. Exhibits Nos. 722 to 725—Correspondence between C. W. Bacon and B. L. Swett.....	1856½	987
Govt. Exhibit No. 726—Letter from J. L. States to C. W. Bacon, May 9, 1916.....	1858½	988

	Original	Print
Govt. Exhibit No. 727—Letter from C. W. Bacon to R. E. Griffith, May 10, 1916.....	1859	989
Govt. Exhibits Nos. 728 and 729—Correspondence between E. P. Alker and B. L. Swett.....	1860	990
Govt. Exhibits Nos. 730 and 731—Correspondence between C. W. Bacon and S. J. Fehnel.....	1861	990
Govt. Exhibit No. 732—Letter from W. D. Lober to D. H. MacFarland, May 7, 1917.....	1862½	991
Govt. Exhibit No. 733—Memorandum from J. F. T. to D. H. MacFarland.....	1863½	992
Govt. Exhibit No. 734—Letter from Kern Dodge, May 3, 1917.....	1864	992
Govt. Exhibit No. 735—Letter from C. W. Bacon to J. F. Twamley, May 10, 1917.....	1864½	992
Govt. Exhibit No. 736—Letter from C. W. Bacon to D. H. MacFarland, May 10, 1917.....	1865½	993
Govt. Exhibit No. 737—Letter from B. L. Swett to H. S. Gaines, November 16, 1917.....	1866	993
Govt. Exhibit No. 738—Letter from E. R. Stapleton to Robert Griffith, February 4, 1919.....	1866½	994
Govt. Exhibit No. 739—Letter from R. E. Griffith to E. R. Stapleton, February 5, 1919.....	1870	994
Govt. Exhibit No. 740—Letter from Raymond to R. E. Griffith, May 20, 1919.....	1871½	995
Govt. Exhibit No. 741—Letter from R. E. Griffith to F. M. Coogan, June 11, 1919.....	1871½	995
Govt. Exhibit No. 742—Letter from J. B. Lober to G. S. Brown, January 19, 1921.....	1872	996
Govt. Exhibit No. 743—Letter from F. E. Paulson to Security Cement & Lime Co., April 10, 1915.....	1873	996
Govt. Exhibit No. 744—Letters from J. K. Barbour to F. M. Coogan, May 21 and June 13, 1915.....	1873½	997
Govt. Exhibits Nos. 746 and 747—Correspondence between H. S. Gaines and B. L. Swett.....	1874½	998
Govt. Exhibit No. 748—Letter from J. R. Morron to Mr. Gowen, July 12, 1915.....	1875½	998
Govt. Exhibits Nos. 749 to 751—Correspondence between W. N. Beach and F. M. Coogan.....	1876½	999
Govt. Exhibit No. 752—Circular from Lehigh Portland Cement Co., December 6, 1916.....	1878½	1000
Govt. Exhibit No. 753—Circular to members from Alpha Portland Cement Co.....	1879	1000
Govt. Exhibit No. 754—Letter from The Atlas Portland Cement Co. to J. P. Hall, Inc., December 7, 1916.....	1880	1001
Govt. Exhibits Nos. 755 and 756—Correspondence between W. S. Mallory and C. W. Bacon.....	1880½	1002
Govt. Exhibit No. 757—Letter from W. D. Clark to Cement Manufacturers Protective Association, August 6, 1917.....	1882	1003

	Original	Print
Govt. Exhibit No. 758—Letter from C. H. Cox to Cement Manufacturers Protective Association, October 5, 1918.....	1882½	1003
Govt. Exhibits Nos. 759 and 760—Letters from G. F. Bayle, Jr., to Cement Manufacturers Protective Association, July 16, 1919, and October 14, 1919.....	1883	1004
Govt. Exhibit No. 761—Letter from Joseph Brobston to Miss M. B. Phalen, September 8, 1919.....	1884	1004
Govt. Exhibit No. 762—Letter from R. W. Hilles to B. L. Swett, December 30, 1919.....	1885	1005
Govt. Exhibits Nos. 763 to 768—Correspondence between H. B. Warner and Morris Kind.....	1885½	1006
Govt. Exhibit No. 769—Letter from Archibald Cox to W. D. Lober, October 27, 1917.....	1888½	1008
Govt. Exhibit No. 770—Letter from W. D. Lober to C. W. Bacon, October 31, 1917.....	1889	1008
Govt. Exhibit No. 771—Letter from Archibald Cox to W. D. Lober, October 27, 1917.....	1889½	1008
Govt. Exhibit No. 772—Letter from G. F. Bayle to W. D. Lober, November 1, 1917.....	1890½	1009
Govt. Exhibit No. 773—Letter from W. N. Beach to W. D. Lober, November 1, 1917.....	1891	1010
Govt. Exhibit No. 774—Letter from W. E. Erdell to W. D. Lober, November 1, 1917.....	1891½	1010
Govt. Exhibit No. 775—Letter from F. M. Coogan to W. D. Lober, November 1, 1917.....	1892	1010
Govt. Exhibit No. 776—Letter from E. B. Goode, Jr., to W. D. Lober, November 1, 1917.....	1892½	1011
Govt. Exhibit No. 777—Letter from J. A. Horner to W. D. Lober, November 1, 1917.....	1893	1011
Govt. Exhibit No. 778—Letter from J. F. Twamley to W. D. Lober, November 1, 1917.....	1893½	1012
Govt. Exhibit No. 779—Letter from H. H. Ward to W. D. Lober, November 1, 1917.....	1894	1012
Govt. Exhibit No. 780—Letter from H. M. Scott to W. D. Lober, November 1, 1917.....	1894½	1012
Govt. Exhibit No. 781—Letter from F. H. Smith to W. D. Lober, November 1, 1917.....	1896½	1013
Govt. Exhibit No. 782—Letter from W. S. Mallory to W. D. Lober, November 2, 1917.....	1897½	1013
Govt. Exhibit No. 783—Letter from W. G. Dutton to W. D. Lober, November 2, 1917.....	1898	1014
Govt. Exhibit No. 784—Letter from R. L. Cope to W. D. Lober, November 2, 1917.....	1899	1014
Govt. Exhibit No. 785—Letter from R. E. Griffith to W. D. Lober, November 2, 1917.....	1899½	1015
Govt. Exhibit No. 786—Letter from R. W. Hilles to W. D. Lober, November 3, 1917.....	1900	1015
Govt. Exhibit No. 787—Letter from B. L. Swett to W. D. Lober, November 5, 1917.....	1900½	1015

INDEX

XXV

	Original	Print
Govt. Exhibit No. 788—Letter from H. S. Gaines to Irving Oberman, October 18, 1917.....	1901	1016
Govt. Exhibit No. 789—Letter from H. S. Gaines to Harry I. Norton, November 5, 1917.....	1901½	1016
Govt. Exhibit No. 790—Letter from W. G. Dutton to W. D. Lober, November 27, 1917.....	1902½	1017
Govt. Exhibit No. 791—Letter from president Cement Manufacturers Protective Association to W. G. Dutton, December 3, 1917.....	1904	1018
Govt. Exhibit No. 792—Letter from W. D. Lober to C. W. Bacon, December 3, 1917.....	1904½	1018
Govt. Exhibit No. 793—Letter from president Cement Manufacturers Protective Association to J. R. Morron, February 14, 1918.....	1905	1019
Govt. Exhibits Nos. 794 and 795—Correspondence between W. N. Beach and W. G. Dutton.....	1906½	1020
Govt. Exhibit No. 796—Letter from A. B. Daniels to W. G. Dutton, February 20, 1918.....	1908	1021
Govt. Exhibit No. 797—Letter from W. G. Dutton to A. B. Daniels, February 23, 1918.....	1909	1021
Govt. Exhibits Nos. 798 and 799—Correspondence between W. G. Dutton and L. C. Morton.....	1910	1022
Govt. Exhibit No. 800—Letter from H. S. Gaines to T. E. Wright, March 21, 1919.....	1911	1022
Govt. Exhibit No. 801—Estimate of defendants' properties in 1919.....	1912½	1023
Govt. Exhibit No. 802—Letter from W. M. Floring to Manchester & Hudson Co., April 1, 1919.....	1913	1023
Govt. Exhibit No. 803—Letter from W. M. Floring to Windsor Cement Co., April 1, 1919.....	1915½	1023
Govt. Exhibit No. 804—Comparison of wholesale prices at present with 1920 and prewar.....	1918½	1024
Govt. Exhibit No. 805—Wholesale price comparisons..	1919	1024
Govt. Exhibit No. 806—Chart showing recession in prices as of December, 1921, of commodities on Defendants' Exhibit 134.....	1921½	1024
Govt. Exhibit No. 807—Chart showing wholesale price comparisons	1922	1024
Govt. Exhibit No. 808—Letter from L. R. B. to F. A. Boeyge et al., January 26, 1920.....	1922½	1024
Govt. Exhibit No. 809—Letter from L. R. B. to D. H. MacFarland, June 4, 1920.....	1923	1024
Govt. Exhibit No. 810—Circular letter to members, June 24, 1920.....	1924	1024
Govt. Exhibit No. 811—Number of officers and salaries, 1916-1921, Allentown.....	1924½	1025
Govt. Exhibit No. 812—Number of officers and salaries, 1916-1921, Alpha.....	1924½	1025
Govt. Exhibit No. 813—Number of officers and salaries, 1916-1921, Atlas.....	1925	1025

	Original	Print
Govt. Exhibit No. 814—Number of officers and salaries, 1916-1921, Bath.....	1925	1026
Govt. Exhibit No. 815—Number of officers and salaries, 1916-1921, Coplay.....	1025½	1026
Govt. Exhibit No. 816—Number of officers and salaries, 1916-1921, Dexter.....	1925½	1026
Govt. Exhibit No. 817—Number of officers and salaries, 1916-1921, Edison.....	1926	1026
Govt. Exhibit No. 818—Number of officers and salaries, 1916-1921, Giant.....	1926	1027
Govt. Exhibit No. 819—Number of officers and salaries, 1916-1921, Glens Falls.....	1926½	1027
Govt. Exhibit No. 820—Number of officers and salaries, 1916-1921, Hercules.....	1926½	1027
Govt. Exhibit No. 821—Number of officers and salaries, 1916-1921, Knickerbocker.....	1927	1027
Govt. Exhibit No. 822—Number of officers and salaries, 1916-1921, Lawrence.....	1927	1028
Govt. Exhibit No. 823—Number of officers and salaries, 1916-1921, Lehigh.....	1927½	1028
Govt. Exhibit No. 824—Number of officers and salaries, 1916-1921, Nazareth.....	1927½	1028
Govt. Exhibit No. 825—Number of officers and salaries, 1916-1921, Penn-Allen.....	1928	1028
Govt. Exhibit No. 826—Number of officers and salaries, 1916-1921, Pennsylvania.....	1928	1029
Govt. Exhibit No. 827—List of officers and salaries, 1916-1921, Phoenix.....	1928½	1029
Govt. Exhibit No. 828—List of officers and salaries, 1916-1921, Security.....	1928½	1029
Govt. Exhibit No. 829—List of officers and salaries, 1916-1921, Vulcanite.....	1929	1029
Def'ts' Exhibit D-1—Bureau of Standards circular No. 33, United States Government specifications for Portland cement.....	1932	1030
Def'ts' Exhibit No. D-2—Correspondence.....	1958	1030
Def'ts' Exhibit No. D-3—Correspondence between Ce- ment Manufacturers Protective Association and Lehigh Portland Cement Co.....	1962	1034
Def'ts' Exhibit No. D-4—Instructions to auditors.....	1965	1037
Def'ts' Exhibit D-5—Correspondence.....	1067	1039
Def'ts' Exhibit No. D-6—Correspondence.....	1971½	1043
Def'ts' Exhibit No. D-7—Letter from B. L. Swett to Cement Manufacturers Protective Association, Janu- ary 16, 1920.....	1975	1046
Def'ts' Exhibit No. D-9—Annual report of Cement Manufacturers Protective Association, 1920.....	1977	1048
Def'ts' Exhibit No. D-24—Letter from D. H. MacFar- land to C. A. Kimball, October 20, 1916.....	1000	1054
Def'ts' Exhibit No. D-25—Letter from J. R. Morron to D. H. MacFarland, October 20, 1916.....	2000	1055

INDEX

xxvii

	Original	Print
Def'ts' Exhibit No. D-26—Letter from C. A. Kimball to D. H. MacFarland, October 20, 1916.....	2001	1056
Def'ts' Exhibit No. D-27—Letter from J. R. Morron to L. G. McConnell, January 15, 1917.....	2002	1056
Def'ts' Exhibits Nos. D-28 to D-34—Letters from J. R. Morron to Mr. Holman.....	2002½	1056
Def'ts' Exhibits Nos. D-35 to D-50—Correspondence between E. B. Goode and A. P. Lockwood.....	2008½	1059
Def'ts' Exhibits Nos. D-51 to D-55—Correspondence between W. G. Dutton and Mr. Franks.....	2015½	1064
Def'ts' Exhibit No. D-56—Letter from W. L. H. to J. H. Kelter Co., June 3, 1919.....	2019	1066
Def'ts' Exhibit No. D-57—Letter from W. M. Floring to Albany Builders Supply Co., Inc., January 28, 1921.....	2020	1067
Def'ts' Exhibit No. D-58—Letter from Knickerbocker Portland Cement Co. to A. Lyth and Sons Co., May 3, 1921.....	2021½	1067
Def'ts' Exhibit No. D-59—Letter from Giant Portland Cement Co. to A. Lyth & Sons Co., May 10, 1920....	2022	1068
Def'ts' Exhibits Nos. D-60 and D-61—Circulars from Alpha Portland Cement Co., April 11, 1919.....	2022½	1068
Def'ts' Exhibit No. D-62—Circular from Alpha Portland Cement Co., September 3, 1918.....	2024½	1070
Def'ts' Exhibit No. D-63—Letter from H. H. Ward to Albany Builders Supply Co., December 10, 1914....	2028½	1074
Def'ts' Exhibit No. D-64—Letter from W. M. Floring to Albany Builders and Supply Co., April 13, 1920....	2030	1074
Def'ts' Exhibit No. D-65—Letter from L. G. McConnell to D. H. MacFarland, January 16, 1917.....	2032	1074
Def'ts' Exhibit No. D-66—Letter from L. G. McConnell to C. A. Kimball, January 23, 1917.....	2033	1075
Def'ts' Exhibit No. D-67—Letter from W. G. Thompson to Mr. Heft, March 21, 1918.....	2033½	1076
Def'ts' Exhibit No. D-68—Letter from H. C. S. to Mr. Kimball, March 21, 1918.....	2034	1076
Def'ts' Exhibit No. D-69—Letter from E. J. to Mr. Kimball, March 21, 1918.....	2034½	1076
Def'ts' Exhibits Nos. D-70, D-71, and D-72—Price quotations.....	2034½	1077
Def'ts' Exhibit No. D-73—Letter from Alpha Portland Cement Co. to R. G. Brewer, March 21, 1918.....	2035½	1077
Def'ts' Exhibits Nos. D-74, D-75, and D-76—Price quotations.....	2037½	1078
Def'ts' Exhibit No. D-77—Letter from Vulcanite Portland Cement Co. to R. G. Brewer, March 21, 1918....	2038½	1078
Def'ts' Exhibit No. D-78—Letter from Alpha Portland Cement Co. to J. J. Leonard, March 21, 1918.....	2040	1079
Def'ts' Exhibit No. D-79—Letter from O. B. Williams to J. J. Leonard, March 21, 1918.....	2041½	1079

	Original	Print
Def'ts' Exhibit No. D-80—Letter from D. H. MacFarland to J. R. Morron, March 21, 1918.....	2042½	1080
Def'ts' Exhibit No. D-81—Telegram from J. R. Morron to D. H. MacFarland, March 21, 1918.....	2043	1080
Def'ts' Exhibit No. D-82—Letter from D. H. MacFarland to J. R. Morron, March 21, 1918.....	2043½	1080
Def'ts' Exhibit No. D-83—Telegraph from J. R. Morron to B. H. MacFarland, March 22, 1918.....	2044	1081
Def'ts' Exhibit No. D-84—Letter from D. H. MacFarland to J. R. Morron, March 23, 1918.....	2044½	1081
Def'ts' Exhibits Nos. D-85 and D-86—Telegrams from J. R. Morron to D. H. MacFarland, March 24, 1918..	2045	1081
Def'ts' Exhibit No. D-87—Letter from C. A. Kimball to McKenna, March 22, 1918.....	2046	1082
Def'ts' Exhibit No. D-88—Letter from C. A. Kimball to Boston office, March 22, 1918.....	2046½	1082
Def'ts' Exhibit No. D-120—Chart showing percentage change in volume of shipments for cement and other construction materials.....	2048	1082
Def'ts' Exhibit No. D-130—Circular letter to members from H. G. Jacobsen, May 25, 1920.....	2049	1083
Def'ts' Exhibit No. D-130A—Circular letter to members from A. N. Johnson, May 26, 1920.....	2049½	1083
Def'ts' Exhibit No. D-131—Circular letter to members from A. N. Johnson, June 22, 1920.....	2050½	1084
Def'ts' Exhibit No. D-132—Brief of The Portland Cement Co. to Interstate Commerce Commission re modification of service order No. 7.....	2051½	1085
Def'ts' Exhibit No. D-133—Circular letter to members from G. A. Ricker, August 21, 1920.....	2054½	1087
Def'ts' Exhibit No. D-134—Chart showing maximum wholesale prices of commodities.....	2056	1088
Def'ts' Exhibit No. D-136—Telegram from W. A. Holman to J. R. Morron, April 24, 1922.....	2057	1088
Def'ts' Exhibit No. D-137—Announcement, Edison Portland Cement Co.....	2057½	1089
Def'ts' Exhibit No. D-147—Letter from State highway engineer to Vulcanite Portland Cement Co., March 20, 1919.....	2058	1089
Def'ts' Exhibit No. D-148—Correspondence.....	2058½	1090
Def'ts' Exhibit No. D-149—Tabulation of replies to inquiry contained in Govt. Exhibit No. 326.....	2066½	1096
Def'ts' Exhibit No. D-150—Letter from J. A. Norton to Atlas Portland Cement Co., January 20, 1920....	2067½	1098
Def'ts' Exhibit No. D-151—Letter from The Atlas Portland Cement Co., January 21, 1920.....	2068	1098
Def'ts' Exhibit No. D-152—Letter from Coplay Cement Mfg. Co. to George A. Fuller Co., April 5, 1921.....	2068½	1098
Def'ts' Exhibit No. D-153—Letter from A. I. Campbell to Lawrence Cement Company, November 1, 1920	2069½	1099

	Original	Print
Def'ts' Exhibits No. D-154 and D-155—Letters from Copley Cement Co. to Thompson Starrett Co.....	2070½	1100
Def'ts' Exhibit No. D-156—Telegram from W. A. Holman to W. E. Erdell, February 28, 1919.....	2071½	1101
Def'ts' Exhibit No. D-157—Industrial Board of the Department of Commerce, Bulletin No. 49.....	2072½	1102
Def'ts' Exhibits Nos. D-166 to D-170—Letters from J. R. Morron to W. A. Holman.....	2078½	1107
Def'ts' Exhibit No. D-171—Letter from The Atlas Portland Cement Co. to D. H. MacFarland, September 1, 1915.....	2081½	1109
Def'ts' Exhibit No. D-172—Letter from D. H. MacFarland to J. C. Larimer, November 30, 1915.....	2082	1109
Def'ts' Exhibits Nos. D-173, D-174, and D-175—Letters from J. R. Morron to D. H. MacFarland.....	2082½	1110
Def'ts' Exhibit No. D-176—Letter from L. G. McConnell to Clark & Conklin, July 23, 1918.....	2086	1112
Def'ts' Exhibit No. D-177—Letter from L. G. McConnell to Mr. Heft, August 5, 1918.....	2087	1113
Def'ts' Exhibit No. D-178—Letter from L. G. McConnell to Mr. Hicks, November 19, 1919.....	2087½	1113
Def'ts' Exhibit No. D-179—Letter from F. B. McKenna to L. G. McConnell, March 13, 1919.....	2088	1114
Def'ts' Exhibit No. D-180—Letter from L. G. McConnell to D. R. Long, January 21, 1920.....	2088½	1114
Def'ts' Exhibit No. D-181—Letter from L. G. McConnell to Mr. McKenna, October 22, 1919.....	2089	1114
Def'ts' Exhibit No. D-182—Letter from L. G. McConnell to Mr. Jaynes, October 3, 1919.....	2089½	1115
Def'ts' Exhibit No. D-183—Letter from L. G. McConnell to Mr. Long, October 3, 1919.....	2090	1115
Def'ts' Exhibit No. D-184—Letter from L. G. McConnell to Mr. Spencer, October 3, 1919.....	2090½	1115
Def'ts' Exhibit No. D-185—Letter from L. G. McConnell to Mr. Conklin, October 3, 1919.....	2091	1116
Def'ts' Exhibits Nos. D-186 and D-187—Correspondence between J. R. Morron and L. G. McConnell.....	2091½	1116
Def'ts' Exhibit No. D-190—Correction notice in freight rate books.....	2093	1117
Def'ts' Exhibits Nos. D-191 and D-192—Correspondence between W. M. Floring and J. W. Stinson.....	2095	1117
Def'ts' Exhibit No. D-193—Letter from H. S. Gaines to A. D. Naylor, January 28, 1919.....	2096½	1118
Def'ts' Exhibits Nos. D-194 and D-195—Letters from C. H. Cox to M. J. Frostholt, September 22, 1919, and November 23, 1920.....	2097	1119
Def'ts' Exhibit No. D-196—Telegram from Phoenix Portland Cement Co. to P. E. Bradlee, October 22, 1920	2098	1119

	Original	Print
Def'ts' Exhibits Nos. D-197 and D-198—Letters from C. H. Cox to P. E. Bradlee.....	2098½	1120
Def'ts' Exhibits Nos. D-199 and D-200—Correspondence between G. M. Clukas and W. N. Beach.....	2099½	1120
Def'ts' Exhibit No. D-201—Letter from Bickel to Albert Moyer, July 11, 1918.....	2101	1121
Def'ts' Exhibit No. D-202—Letter from C. H. Cox to F. L. Leach, October 6, 1919.....	2101½	1122
Def'ts' Exhibit No. D-203—Letter from A. G. Gowen to J. R. Morron, July 13, 1915.....	2102	1122
Def'ts' Exhibit No. D-204—Letter to Mr. Gowen, July 15, 1915.....	2102½	1122
Def'ts' Exhibits Nos. D-205 and D-206—Letters from A. G. Gowen to J. R. Morron, July 6, July 27, 1915..	2103	1123
Def'ts' Exhibit No. D-207—Memorandum from Atlas Portland Cement Co.....	2104½	1124
Def'ts' Exhibits Nos. D-208, D-209, and D-210—Correspondence between Mr. Young and J. R. Morron....	2105	1124
Def'ts' Exhibit No. D-211—Minutes of meeting, September 14, 1915.....	2108	1127
Def'ts' Exhibit No. D-212—Minutes of meeting, December 16, 1915.....	2108½	1127
Def'ts' Exhibits Nos. D-213 and D-214—Correspondence between W. A. Holman and Archibald Cox....	2109	1128
Def'ts' Exhibit No. D-215—Report from C. S. Swallow, January 5, 1916.....	2111	1129
Def'ts' Exhibits Nos. D-216 and D-217—Correspondence between W. F. Floring and Mr. Stinson.....	2111½	1129
Def'ts' Exhibit No. D-218—Letter from A. D. Naylor to Mr. White, April 25, 1921.....	2112½	1130
Def'ts' Exhibit No. D-219—Letter from A. D. Naylor to Mr. Abbott, April 25, 1921.....	2113	1130
Def'ts' Exhibit No. D-220—Letter from A. D. Naylor to Mr. White, June 8, 1921.....	2113½	1131
Def'ts' Exhibit No. D-221—Letter from F. H. Smith to salesman, May 16, 1916.....	2114	1131
Def'ts' Exhibit No. D-222—Letter from Lawrence Portland Cement Co. to F. H. Smith, May 17, 1916.....	2114½	1131
Def'ts' Exhibits Nos. D-223 and D-224—Letters from R. A. Pruden to J. P. Maloney.....	2115	1132
Def'ts' Exhibit No. D-225—Letter from F. H. Smith to J. P. Maloney, February 1, 1917.....	2116	1132
Def'ts' Exhibit No. D-226—Letter from R. A. Pruden to Construction Supply Co., April 19, 1919.....	2116½	1133
Def'ts' Exhibit No. D-227—Telegram from Construction Supply Co. to Lawrence Cement Co., April 19, 1919	2117	1133
Def'ts' Exhibit No. D-228—Letter from B. F. Stradley to J. F. Twamley, July 6, 1916.....	2117½	1133

INDEX

XXXI

	Original	Print
Def'ts' Exhibits Nos. D-229 to D-231—Correspondence between Pennsylvania Cement Co. and G. M. Chukas.	2118	1134
Def'ts' Exhibits Nos. D-232 to D-234—Correspondence between H. B. Brewster and E. P. Alker and H. B. Brewster.....	2120½	1135
Def'ts' Exhibits Nos. D-235 to D-237—Correspondence between E. B. Goode and T. F. McBride.....	2122	1136
Def'ts' Exhibits Nos. D-238 and D-239—Correspondence between P. L. Hayden and B. W. Kessel.....	2123½	1137
Def'ts' Exhibit No. D-240—Letter from D. H. MacFarland to W. A. Holman, April 7, 1919.....	2124½	1138
Def'ts' Exhibit No. D-241—Letter from J. R. Morron to Mr. MacFarland, April 10, 1919.....	2126	1139
Def'ts' Exhibit No. D-242—Letter from L. Larmont to Dexter Portland Cement Co., December 21, 1920....	2126½	1140
Def'ts' Exhibit No. D-243—Letter from H. Y. to H. Wales Lines Co., December 29, 1920.....	2127	1140
Def'ts' Exhibits Nos. D-244 and D-245—Correspondence between S. J. Fehnel and J. W. Ramsay.....	2127½	1140
Def'ts' Exhibits Nos. D-246 to D-248—Correspondence between J. W. Ramsay and J. A. Horner.....	2128½	1141
Def'ts' Exhibit No. D-249—Letter from C. H. Cox to P. E. Bradlee, May 31, 1921.....	2130	1142
Def'ts' Exhibit No. D-250—Letter from L. R. Beach to Mr. MacFarland, June 19, 1920.....	2131	1143
Def'ts' Exhibits Nos. D-260A to D-260S—Shipments monthly and annually of member companies, 1913-1921	2138	1145
Def'ts' Exhibit No. D-261—Shipments of all companies, 1913-1921.....	2157	1164
Def'ts' Exhibit No. 262—Average price realized per barrel for all companies, 1913-1921.....	2158	1165
Def'ts' Exhibits Nos. D-263A to D-263R—Individual statements showing coal used by each company, 1913-1921	2159	1166
Def'ts' Exhibits Nos. D-264A to D-264S—Individual statements showing cost per barrel monthly and annually by each company, 1913-1921.....	2177	1184
Def'ts' Exhibits Nos. D-265A to D-265I—Labor costs per barrel, monthly and annually, for all companies, 1913-1921	2196	1203
Def'ts' Exhibit No. D-266—Production for all companies annually, 1913-1921.....	2205	1212
Def'ts' Exhibit No. D-267—Hourly rates of labor, monthly and annually, for Alpha Portland Cement Co., 1913-1921.....	2206	1213
Def'ts' Exhibits Nos. D-268A to D-268S—Individual statements of selling expense and pay-roll for member companies, 1913-1921.....	2207	1214

	Original	Print
Def'ts' Exhibits Nos. D-269A to D-269I—Selling expense and pay roll for all companies, 1913-1921.....	2226	1233
Def'ts' Exhibits Nos. D-270A to D-270S—Individual financial statements of member companies, 1913-1921.	2235	1224
Def'ts' Exhibits Nos. D-271A to D-271I—Financial statements of all companies, 1913-1921.....	2254	1261
Def'ts' Exhibits Nos. D-272A to D-272D—Individual statements of expense for Atlas, Lehigh, Penn-Allen, and Coplay Portland Cement Companies, 1913-1921.	2263	1270
Def'ts' Exhibits Nos. D-273A to D-273S—Individual statements of cost of bags for member companies, 1913-1921	2267	1273
Def'ts' Exhibit No. D-274—Annual profit or loss on bags for all companies, 1913-1921.....	2286	1293
Def'ts' Exhibits Nos. D-275A to D-275S—Individual statements of age of mills and rock deposit supply of member companies.....	2287	1294
Def'ts' Exhibits Nos. D-277A to D-277S—Individual statements of working capital for member companies, 1917-1921.....	2306	1313
Def'ts' Exhibit No. D-278—Working capital for all companies, 1917-1921.....	2325	1332
Def'ts' Exhibit No. D-279—Average price realized per barrel, all companies, 1913-1921.....	2326	1333
Def'ts' Exhibit No. D-285—Chart showing effect of war on prices of wholesale commodities.....	2329	1334
Def'ts' Exhibit No. D-286—Chart showing increase in price of coal as compared with increase in price of cement, 1913-1921.....	2330	1325
Def'ts' Exhibit No. D-292—Chart showing percentage of increase in labor cost and price of cement per barrel based on 1913.....	2331	1336
Def'ts' Exhibit No. D-293—Chart showing percentage of increase in price of coal and price of cement per barrel based on 1913.....	2332	1337
Def'ts' Exhibit No. D-294—Chart showing average hourly rates plant service of Alpha Portland Cement Co., 1913-1921.....	2333	1338
Def'ts' Exhibit No. D-295—Chart showing percentage of increase in selling cost and price of cement per barrel based on 1913.....	2334	1339
Def'ts' Exhibits Nos. D-296 to D-304—Charts showing average net prices received per barrel, 1913-1921....	2335	1340
Def'ts' Exhibit No. D-305 to D-307—Charts showing aggregate receipts from sale of cement at mills and expense, 1913-1921, Allentown, Alpha, and Atlas....	2344	1349
Def'ts' Exhibit No. D-308—Chart showing average receipts per barrel from sale of cement at mills and expense per barrel, Atlas Company, 1913-1921.....	2347	1352
Def'ts' Exhibit No. D-309—Chart showing various elements of expense of the Atlas Company, 1913-1921..	2348	1352a

INDEX

xxxiii

	Original	Print
Def'ts' Exhibits Nos. D-310 and D-311—Charts showing aggregate receipts from sale of cement at mills and expense for Bath and Coplay Companies, 1913-1921..	2349	1353
Def'ts' Exhibit No. D-312—Chart showing average receipts per barrel from sale of cement at mills and expense per barrel, 1913-1921, Coplay Company.....	2351	1355
Def'ts' Exhibits Nos. D-314 to D-321—Charts showing aggregate receipts from sale of cement at mills and expense, 1913-1921, for Dexter, Edison, Giant, Glens Falls, Hercules, Knickerbocker, Lawrence, and Lehigh Companies.....	2352	1356
Def'ts' Exhibit No. D-322—Chart showing average receipts per barrel from sale of cement at mills and expense per barrel, 1913-1921, Lehigh Company.....	2360	1364
Def'ts' Exhibits Nos. D-324 and D-325—Charts showing aggregate receipts from sale of cement at mills and expense, 1913-1921, Nazareth and Penn-Allen Companies	2361	1365
Def'ts' Exhibit No. D-326—Chart showing average receipts per barrel from sale of cement at mills and expense, 1913-1921, Penn-Allen Company.....	2363	1367
Def'ts' Exhibits Nos. D-328 to D-331—Charts showing aggregate receipts from sale of cement at mills and expense, 1913-1921, Pennsylvania, Phoenix, Security, and Vulcanite Companies.....	2364	1368
Def'ts' Exhibit No. D-332—Chart showing aggregate receipts from sale of cement at mills and expense, all companies, 1913-1921.....	2368	1372
Def'ts' Exhibit No. D-333—Chart showing percentage of profits to aggregate receipts from sale of cement at mills, 1913-1921, all companies.....	2369	1373
Def'ts' Exhibits Nos. D-334 to D-352—Chart for each company showing profit and invested capital, 1913-1921	2370	1374
Def'ts' Exhibit No. D-353—Chart showing profit and invested capital, 1913-1921, all companies.....	2389	1393
Def'ts' Exhibit No. D-354—Chart showing percentage of return on invested capital, 1913-1921, all companies	2390	1394
Def'ts' Exhibit No. D-356—Chart showing net income plus interest paid in proportion to total investment.	2391	1395
Def'ts' Exhibit No. D-364—Chart showing profits on invested capital, 1913-1921.....	2392	1396
Def'ts' Exhibit No. D-365—Chart showing average receipts per barrel for sale of cement at mills and average expense per barrel, 1913-1921, all companies....	2393	1397
Def'ts' Exhibit No. D-366—Chart showing profit and loss on bags, 1913-1921.....	2394	1398
Def'ts' Exhibit No. D-367—Chart graphically illustrating Government's Exhibits Nos. 373, 374.....	2395	1399

	Original	Print
Def'ts' Exhibits Nos. D-368A to D-368E—Charts graphically illustrating Government's Exhibit No. 361, 1913-1920.....	2396	1400
Def'ts' Exhibits Nos. D-369A to D-369H—Charts graphically illustrating Government's Exhibit No. 377	2401	1405
Def'ts' Exhibits Nos. D-370A to D-370E—Charts graphically illustrating Government's Exhibits Nos. 382, 388, 390.....	2409	1413
Def'ts' Exhibit No. D-371—Fundamentals of a cost system for manufacturers, published by Federal Trade Commission, July 1, 1916.....	2414	1417
Def'ts' Exhibit No. D-372—Letter from E. N. Hurley to C. F. Conn, August 2, 1916.....	2419	1420
Def'ts' Exhibit No. D-375—Address by E. N. Hurley, May 10, 1916.....	2420	1420
Def'ts' Exhibits Nos. D-376A to D-376F—Charts showing shipments in percentage of total each year based on 1916, 1913-1921.....	2430	1430
Def'ts' Exhibit No. D-377—Chart showing total commitments on specific job contracts at end of each month, August, 1918, to August, 1921.....	2436	1430
Def'ts' Exhibit No. D-378—Chart showing dates when changes were made effective by each company in the base price used by it in figuring most of its quotations, December 1, 1919, to December 31, 1920....	2438	1430
Def'ts' Exhibit No. D-379—Letter from Allentown office to H. B. Shelly, January 13, 1916.....	2452	1430
Def'ts' Exhibit No. D-380—Letter from B. L. Swett to H. A. Swett, May 16, 1916.....	2452½	1431
Def'ts' Exhibits Nos. D-381 and D-382—Letters from B. L. Swett to A. M. Houser, May 17 and 16, 1916..	2453	1431
Def'ts' Exhibit No. D-383—Letter from J. W. Ramsay to F. M. Hoover, July 26, 1916.....	2455	1433
Def'ts' Exhibit No. D-384—Letter from W. G. Dutton to Coplay Cement Mfg. Company, September 29, 1916	2455½	1434
Def'ts' Exhibit No. D-385—Letter from S. Tredennick to Allentown Portland Cement Co., January 31, 1917..	2456½	1434
Def'ts' Exhibit No. D-386—Telegram from Allentown Portland Cement Co. to H. Wales Lines Co., February 1, 1917.....	2457	1435
Def'ts' Exhibit No. D-387—Letter from Allentown Portland Cement Co. to H. Wales Lines Co., February 1, 1917.....	2457½	1435
Def'ts' Exhibit No. D-388—Letter from Wm. Kraetz to E. P. Alker, September 11, 1916.....	2458	1435
Def'ts' Exhibit No. D-389—Letter from Pennsylvania Cement Co. to Wm. Kraetz, September 12, 1916.....	2459	1436
Def'ts' Exhibit No. D-390—Letter from Albert Moyer to Edw. Nennig, June 12, 1916.....	2459½	1436

INDEX

XXXV

	Original	Print
Def'ts' Exhibit No. D-391—Letter from vice-president to B. F. Stradley, November 14, 1916.....	2460	1437
Def'ts' Exhibit No. D-392—Letter from B. L. Swett to Jos. Fraker, May 16, 1916.....	2460½	1437
Def'ts' Exhibit No. D-393—Letter from A. K. Widenor to E. P. Alker, August 15, 1916.....	2461½	1438
Def'ts' Exhibit No. D-394—Letter from Pennsylvania Cement Co. to A. K. Widenor, August 16, 1916.....	2462½	1439
Def'ts' Exhibit No. D-395—Letter from Mr. Smith to J. J. Maloney, October 27, 1916.....	2436	1439
Def'ts' Exhibit No. D-396—Letter from R. M. Hoe to W. A. Fuchs, July 7, 1916.....	2463½	1439
Def'ts' Exhibit No. D-397—Letter from W. A. Fuchs to Fred Kunkel, July 10, 1916.....	2465	1440
Def'ts' Exhibit No. D-398—Letter from Fred Kunkel to W. A. Fuchs, July 15, 1916.....	2466	1441
Def'ts' Exhibit No. D-399—Letter from B. L. Swett to G. A. Morgan, February 5, 1917.....	2467	1442
Def'ts' Exhibit No. D-400—Letter from G. J. Bickel to G. A. Morgan, March 1, 1917.....	2467½	1442
Def'ts' Exhibits Nos. D-401 and D-402—Letters from G. J. Bickel to H. A. Swett, April 16 and 21, 1917...	2468	1443
Def'ts' Exhibits Nos. D-403 and D-404—Letters from Allentown office to G. A. Morgan, March 12, 29, 1917.	2469½	1444
Def'ts' Exhibit No. D-405—Letter from Lehigh Portland Cement Company to Anibal & Karg, April 30, 1917	2470½	1445
Def'ts' Exhibit No. D-406—Letter from Allentown office to G. A. Morgan, May 11, 1917.....	2471½	1445
Def'ts' Exhibit No. D-407—Letter from B. L. Swett to H. A. Swett, August 6, 1917.....	2472	1446
Def'ts' Exhibit No. D-408—Letter from Allentown office to F. E. Smith, October 23, 1917.....	2472½	1446
Def'ts' Exhibit No. D-409—Letter from Virginia Portland Cement Co. to A. E. Smith, July 28, 1917.....	2473	1446
Def'ts' Exhibit No. D-410—Letter from B. L. Swett to A. M. Houser, May 17, 1916.....	2474	1447
Def'ts' Exhibit No. D-411—Letter from Allentown office to H. A. Swett, July 17, 1917.....	2474½	1448
Def'ts' Exhibit No. D-412—Letter from B. L. Swett to H. A. Swett, October 19, 1917.....	2475	1448
Def'ts' Exhibit No. D-413—Letter from J. W. Ramsay to J. A. Horner.....	2475½	1448
Def'ts' Exhibit No. D-414—Letter from L. E. Cover to J. K. Barbour, February 26, 1918.....	2476	1449
Def'ts' Exhibit No. D-415—Letter from Donahue to E. H. Button, March 28, 1918.....	2476½	1449
Def'ts' Exhibit No. D-416—Letter from Glens Falls Portland Cement Co. to E. H. Button, March 30, 1918	2477	1450

	Original	Print
Def'ts' Exhibit No. D-417—Telegram from Donahue to Glens Falls Cement Co.	2477½	1450
Def'ts' Exhibit No. D-418—Telegram from J. W. Ram- say to Nazareth Cement Company, April 15, 1918..	2478	1450
Def'ts' Exhibit No. D-419—Telegram from Nazareth Cement Company to J. W. Ramsay, April 16, 1918..	2478½	1450
Def'ts' Exhibit No. D-420—Letter from Nazareth Ce- ment Co. to J. B. Vandever, April 23, 1918.....	2479	1451
Def'ts' Exhibit No. D-421—Letter from J. W. Ramsay to S. J. Fehnel, April 26, 1918.....	2479½	1451
Def'ts' Exhibit No. D-422—Circular from Alpha Port- land Cement Co., May 1, 1918.....	2480	1452
Def'ts' Exhibit No. D-423—Letter from F. H. Smith to R. A. Pruden, August 22, 1917.....	2481	1452
Def'ts' Exhibit No. D-424—Letter from L. G. McCon- nell to D. H. MacFarland, July 26, 1917.....	2481½	1453
Def'ts' Exhibit No. D-425—Letter from D. H. Mac- Farland to C. A. Kimball, July 31, 1917.....	2483	1454
Def'ts' Exhibit No. D-426—Letter from J. W. Watkins to S. J. Fehnel, May 20, 1918.....	2484	1455
Def'ts' Exhibit No. D-427—Letter from F. M. Hoover to S. J. Fehnel, June 6, 1918.....	2484½	1455
Def'ts' Exhibit No. D-428—Letter from Vulcanite Port- land Cement Co. to G. J. Bickel, July 9, 1918.....	2485	1456
Def'ts' Exhibit No. D-429—Circular from Alpha Port- land Cement Co., July 15, 1918.....	2485½	1456
Def'ts' Exhibit No. D-430—Letter from L. G. McCon- nell to Mr. Holman, January 25, 1919.....	2486	1457
Def'ts' Exhibit No. D-431—Letter from L. E. Brown- ing to B. L. Swett, March 27, 1918.....	2487	1457
Def'ts' Exhibit No. D-435—Salesman's report, Brown- ing, Lehigh Company.....	2487½	1458
Def'ts' Exhibit No. D-436—Salesman's report, E. F. Stickles, Lehigh Company, March 22, 1919.....	2488½	1459
Def'ts' Exhibit No. D-437—Salesman's report, A. M. Houser, Lehigh Company, December 20, 1919.....	2489½	1460
Def'ts' Exhibit No. D-438—Letter from E. P. Alker to H. C. Merritt, April 20, 1920.....	2490½	1461
Def'ts' Exhibit No. D-439—Letter from C. W. Denni- ston to Knickerbocker Portland Cement Co., October 21, 1919.....	2491	1462
Def'ts' Exhibit No. D-440—Letter from W. M. Flor- ing to C. W. Denniston, October 23, 1919.....	2491½	1462
Def'ts' Exhibit No. D-441—Letter from Nazareth sales office to the officers, February 19, 1920.....	2492	1463
Def'ts' Exhibit No. D-442—Memorandum from Army Construction Division, Washington, D. C., to Na- tional Surety Company, January 25, 1920.....	2492½	1463
Def'ts' Exhibit No. D-443—Letter from C. H. Cox to F. L. Leach, November 3, 1919.....	2493½	1464

INDEX

xxxvii

Original Print

Def'ts' Exhibit No. D-441—Salesman's report, Brown- ing, Lehigh Company, April 20, 1918.....	2494	1464
Def'ts' Exhibit No. D-445—Letter from F. L. Leach to C. H. Cox, October 3, 1919.....	2495	1466
Def'ts' Exhibits Nos. D-446 and D-447—Correspondence between P. E. Bradlee and C. H. Cox.....	2496	1466
Def'ts' Exhibit No. 448—Letter from J. W. Ramsay to F. M. Hoover, January 6, 1920.....	2497	1467
Def'ts' Exhibit No. D-449—Letter from J. W. Stinson to W. M. Floring, July 30, 1919.....	2498	1468
Def'ts' Exhibit No. D-450—Letter from C. H. Cox to P. E. Bradlee, May 9, 1919.....	2499	1468
Def'ts' Exhibit No. D-451—Salesman's report, F. L. Leach, Lehigh Company, August 24, 1918.....	2499½	1469
Def'ts' Exhibit No. D-452—Letter from Glens Falls Portland Cement Co. to Saratoga Coal Co., March 22, 1918.....	2500½	1470
Def'ts' Exhibit No. D-453—Salesman's report, D. A. Gray, Lehigh Co., May 7, 1921.....	2501	1470
Def'ts' Exhibit No. D-454—Salesman's report, P. B. Evans, Lehigh, June 25, 1921.....	2502	1471
Def'ts' Exhibit No. D-455—Estimate of values of de- fendants' properties in 1919.....	2502½	1472
Def'ts' Exhibit No. D-456—Chart showing net earnings of defendant companies as compared to average net earnings on similar investments, 1918-1920.....	2503	1472
Def'ts' Exhibit No. D-457—Chart showing profits of de- fendants as compared with replacement value work- ing capital and rock deposit, 1919 and 1920.....	2504	1472
Def'ts' Exhibits Nos. D-458 and D-459—Salesman's re- ports, F. L. Leach, Lehigh Company, August 31, 1918, and January 4, 1919.....	2505	1472
Def'ts' Exhibit No. 460—Salesman's report, L. S. Pricher, Lehigh Company, August 24, 1918.....	2506½	1474
Def'ts' Exhibit No. D-461—Circular from Lehigh Port- land Cement Co., October 5, 1918.....	2507½	1475
Def'ts' Exhibit No. D-462—Letter from J. W. Ramsay to J. A. Horner, October 15, 1918.....	2510	1477
Def'ts' Exhibit No. D-463—Letter from Nazareth Ce- ment Company to F. M. Hoover, March 27, 1919....	2510½	1478
Def'ts' Exhibit No. D-464—Letter from J. A. Horner to J. W. Ramsay, April 10, 1919.....	2511	1478
Def'ts' Exhibit No. D-465—Letter from McAllister to H. A. Moore, January 8, 1919.....	2511½	1478
Def'ts' Exhibit No. D-466—Letter from W. J. Gros- venor to R. L. Cope, June 7, 1919.....	2512½	1479
Def'ts' Exhibit No. D-467—Letter from F. W. Douglas to Lehigh Portland Cement Co., August 1, 1919.....	2513	1480
Def'ts' Exhibit No. D-468—Letter from C. H. Cox to P. E. Bradlee, August 7, 1919.....	2513½	1480

	Original	Print
Def'ts' Exhibit No. D-469—Letter from W. M. Floring to Mr. Abbott et al., September 16, 1919.....	2514	1480
Def'ts' Exhibit No. D-470—Salesman's report, J. Fraser, Lehigh Company, June 28, 1919.....	2514½	1481
Def'ts' Exhibits Nos. D-471, D-472, D-473—Circulars from Lehigh Portland Cement Co.....	2516	1482
Def'ts' Exhibit No. D-474—Letter from C. H. Cox to P. E. Bradlee, January 12, 1920.....	2518½	1484
Def'ts' Exhibits Nos. D-475, D-476, D-477, D-478, and D-479—Circulars from Lehigh Portland Cement Co.	2519	1484
Def'ts' Exhibit No. D-480—Letter from J. W. Stinson to A. D. Naylor, January 8, 1920.....	2525	1490
Def'ts' Exhibit No. D-481—Letter from A. D. Naylor to Mr. Floring, January 10, 1920.....	2526	1491
Def'ts' Exhibit No. D-482—Letter from G. M. Clukas to E. P. Alker, November 4, 1920.....	2527	1492
Def'ts' Exhibit No. D-483—Letter from E. P. Alker to S. G. Taylor, November 4, 1920.....	2527½	1492
Def'ts' Exhibit No. D-484—Night letter from Nazareth Cement Company, April 7, 1920.....	2528	1493
Def'ts' Exhibit No. D-485—Letter from B. F. Abbott to A. D. Naylor, October 24, 1920.....	2528½	1493
Def'ts' Exhibits Nos. D-486 and D-487—Letters from C. H. Cox to P. E. Bradlee, October 23, 1920, September 20, 1920.....	2529	1493
Def'ts' Exhibit No. D-488—Salesman's report, C. H. Kent, Lehigh Company, April 3, 1920.....	2530½	1494
Def'ts' Exhibit No. D-489—Salesman's report, Brown- ing, Lehigh Company, March 6, 1920.....	2532	1495
Def'ts' Exhibit No. D-490—Salesman's report, C. S. Wheat, Lehigh Company, July 5, 1919.....	2533½	1496
Def'ts' Exhibit No. D-491—Letter from E. P. Alker to H. C. Merritt, August 27, 1920.....	2534½	1497
Def'ts' Exhibit No. D-492—Circular from Security Cement and Lime Co., June 3, 1920.....	2535	1497
Def'ts' Exhibit D-493—Letter from F. B. Ward to S. N. Peters, September 10, 1920.....	2536	1498
Def'ts' Exhibit No. D-494—Letter from S. N. Peters to A. J. Barnes, September 13, 1920.....	2537	1499
Def'ts' Exhibit No. D-495—Letter from C. S. Stitzel to Dexter Portland Cement Co., April 10, 1920.....	2538	1499
Def'ts' Exhibit No. D-496—Letter from Nazareth Cement Company to J. W. Ramsay, December 3, 1920..	2538½	1500
Def'ts' Exhibit No. D-497—Letter from W. M. Floring to Mr. Feeks, November 18, 1920.....	2539	1500
Def'ts' Exhibit No. D-499—Letter from G. P. James to Mr. Dyer, June 19, 1920.....	2540	1501
Def'ts' Exhibit No. D-500—Letter from H. A. Moore to E. P. Alker, January 27, 1921.....	2540½	1501
Def'ts' Exhibit No. D-501—Letter from H. B. Warner to H. S. Rayner, February 3, 1921.....	2541½	1502

INDEX

xxxix

	Original	Print
Def'ts' Exhibit No. D-502—Letter from H. S. Rayner to H. B. Warner, February 2, 1921.....	2542	1502
Def'ts' Exhibits Nos. D-503 and D-504—Letters from sales manager to salesman Lawrence Cement Company	2542½	1503
Def'ts' Exhibit No. D-505—Letter from R. A. Pruden to salesman, March 1, 1921.....	2543½	1503
Def'ts' Exhibit No. D-506—Letter from H. A. Meech to A. J. Stanford, February 15, 1921.....	2544	1504
Def'ts' Exhibit No. D-507—Letter from A. J. Stanford to H. A. Meech, February 16, 1921.....	2544½	1504
Def'ts' Exhibit No. D-508—Letter from W. M. Floring to Mr. Feeks, February 10, 1921.....	2545	1504
Def'ts' Exhibit No. D-509—Letter from Nazareth Cement Company to J. W. Ramsay, March 8, 1921....	2545½	1505
Def'ts' Exhibit No. D-510—Letter from B. W. Kessel to Mr. Child, March 28, 1921.....	2547	1505
Def'ts' Exhibit No. D-511—Letter from C. H. Cox to P. E. Bradlee, March 26, 1921.....	2547½	1505
Def'ts' Exhibit No. D-512—Letter from W. M. Floring to A. D. Naylor, May 2, 1921.....	2548	1506
Def'ts' Exhibit No. D-513—Letter from F. H. Smith to salesman, May 2, 1921.....	2548½	1506
Def'ts' Exhibit No. D-514—Letter from C. E. Tileston to G. F. Bayle, April 28, 1921.....	2459	1507
Def'ts' Exhibit No. D-515—Letter from G. F. Bayle to C. E. Tileston, April 29, 1921.....	2550	1507
Def'ts' Exhibit No. D-516—Letter from A. D. Naylor to J. W. Stinson, June 9, 1921.....	2551	1508
Def'ts' Exhibits Nos. D-517A to D-517S—Summary of files of invoices, correspondence, etc., showing trade practices of defendant companies.....	2551½	1508
Def'ts' Exhibits Nos. D-518A to D-518D—Charts illustrating Exhibits D-517A to D-517S, re trade practices	2690	1648
Def'ts' Exhibit No. D-538—Letter from A. De Navarro to Thorn & Hunkins Lime & Cement Co., June 3, 1901	2696	1648
Def'ts' Exhibit No. D-539—Letter from J. R. Morron to L. R. Burch, January 24, 1920.....	2696½	1648
Def'ts' Exhibit No. D-540—Letter from C. H. Cox to M. J. Frostholt, November 5, 1920.....	2697½	1649
Def'ts' Exhibit No. D-541—Letter from E. P. Alker to H. A. Moore, December 8, 1920.....	2698	1649
Def'ts' Exhibit No. D-542—Letter from C. H. Cox to M. J. Frostholt, November 11, 1920.....	2698½	1650
Def'ts' Exhibit No. D-543—Letter from E. P. Alker to G. M. Clukas, November 6, 1920.....	2699	1650
Def'ts' Exhibit No. D-544—Letter from L. Learmont to Dexter Portland Cement Co., December 13, 1920....	2699½	1650

	Original	Print
Def'ts' Exhibit No. D-545—Letter from H. F. to H. Wales Lines Co., December 18, 1920.....	2702½	1651
Def'ts' Exhibit No. D-546—Salesman's report, Henry, Lehigh Co., December 18, 1920.....	2703	1652
Def'ts' Exhibit No. D-547—Telegram from Speight to Pennsylvania Cement Co., February 3, 1921.....	2704	1653
Def'ts' Exhibits Nos. D-548 and D-549—Letters from H. A. Moses to L. R. C. Speights.....	2704½	1653
Def'ts' Exhibit No. D-550—Letter from W. L. Sperry to Lawrence Cement Co., January 28, 1921.....	2705½	1654
Def'ts' Exhibit No. D-551—Letter from R. A. Wetzler to Mr. Mathesius et al., February 8, 1921.....	2706	1654
Def'ts' Exhibit No. D-552—Letter from H. B. Warner to H. S. Rayner, February 2, 1921.....	2707	1655
Def'ts' Exhibit No. D-553—Letter from H. A. Moore to E. P. Alker, January 28, 1921.....	2708	1656
Def'ts' Exhibit No. D-554—Salesman's report, J. L. Hall, Lehigh Company, February 5, 1921.....	2709	1657
Def'ts' Exhibit No. D-555—Letter from Nazareth Cement Company to J. W. Ramsay, February 8, 1921..	2710½	1658
Def'ts' Exhibit No. D-556—Letter from J. W. Ramsay to S. J. Fehnel, March 7, 1921.....	2711	1658
Def'ts' Exhibit No. D-557—Letter from R. A. Wetzler to Messrs. Furbush et al., March 8, 1921.....	2711½	1658
Def'ts' Exhibit No. D-558—Letter from G. S. Stage to Dexter Portland Cement Co., March 9, 1921.....	2712	1659
Def'ts' Exhibit No. D-559—Letter from H. G. to Erie Contractors Supply Co., March 16, 1921.....	2712½	1659
Def'ts' Exhibit No. D-560—Letter from F. A. S. to Messrs. Bigbee et al., March 28, 1921.....	2713	1659
Def'ts' Exhibit No. D-561—Circular from Edison Portland Cement Co., March 29, 1921.....	2713½	1660
Def'ts' Exhibit No. D-562—Letter from R. A. Wetzler to W. B. Brigg, March 5, 1921.....	2716	1660
Def'ts' Exhibits Nos. D-563 and D-564—Correspondence between H. Wales Lines Co. and Dexter Portland Cement Co.....	2717½	1662
Def'ts' Exhibit No. D-565—Letter from A. D. Naylor to Mr. White, April 9, 1921.....	2719	1663
Def'ts' Exhibit No. D-566—Letter from A. D. Naylor to W. M. Floring, May 5, 1921.....	2720	1664
Def'ts' Exhibit No. D-567—Letter from A. D. Naylor to Mr. Stinson, May 5, 1921.....	2720½	1664
Def'ts' Exhibits Nos. D-568 and D-569—Letters from C. N. Apgar to J. J. Collister, December 9 and 16, 1920	2721	1664
Def'ts' Exhibit No. D-570—Letter from Atlas Portland Cement Co. to C. N. Apgar, December 13, 1920.....	2724	1667
Def'ts' Exhibit No. D-571—Letter from W. F. Clark to J. J. Collister, December 14, 1920.....	2725	1668

INDEX

xli

	Original	Print
Def'ts' Exhibits Nos. D-572 and D-573—Correspondence between C. N. Apgar and J. J. Collister.....	2725½	1668
Def'ts' Exhibits Nos. D-574 and D-575—Correspondence between W. F. Clark and J. J. Collister.....	2727½	1669
Def'ts' Exhibit No. D-576—Letter from C. N. Apgar to J. J. Collister, January 3, 1921.....	2729	1671
Def'ts' Exhibits Nos. D-577 and D-578—Correspondence between W. F. Clark and J. J. Collister.....	2730	1671
Def'ts' Exhibits Nos. D-579 and D-580—Correspondence between W. F. Clark and G. M. Crossland.....	2731	1672
Def'ts' Exhibits Nos. D-581 and D-582—Letters from W. F. Clark to C. N. Apgar, August 16 and 19, 1921..	2733½	1674
Def'ts' Exhibit No. D-583—Summary of Coats & Burchard Company's appraisal of Lehigh's plants as of August, 1920.....	2734½	1675
Def'ts' Exhibit No. D-584—Letter from H. M. Scott to Robert Cope, September 16, 1919.....	2735	1676
Def'ts' Exhibit No. D-585—Letter from A. H. Moses to A. F. Bendel, September 18, 1919.....	2737½	1677
Def'ts' Exhibit No. D-586—Invoices from Security Cement and Lime Co. to Tidewater Portland Cement Co.	2738	1678
Def'ts' Exhibit No. D-587—Invoices from Hercules Cement Corporation to Bath Portland Cement Co.....	2741½	1685
Def'ts' Exhibits Nos. D-588 and D-589—Letters from J. F. Twamley to F. B. Franks, July 18 and 22, 1918...	2743½	1686
Def'ts' Exhibit No. D-590—Letter from R. S. Weaver to C. H. Breerwood, December 22, 1919.....	2744½	1687
Def'ts' Exhibit No. D-591—Letter from C. H. Breerwood to Allentown Portland Cement Co., December 23, 1919.....	2745½	1687
Def'ts' Exhibit No. D-592—Letter from C. H. Breerwood to J. W. Fuller, August 4, 1920.....	2746½	1688
Def'ts' Exhibit No. D-593—Letter from A. B. Daniels to B. L. Swett, August 28, 1919.....	2748½	1689
Def'ts' Exhibit No. D-594—Letter from B. L. Swett to Knickerbocker Portland Cement Co., August 28, 1919	2749	1689
Def'ts' Exhibit No. D-595—Letter from J. Bowen to Knickerbocker Portland Cement Co., August 30, 1919	2750½	1691
Def'ts' Exhibit No. D-596—Letter from B. L. Swett to A. B. Daniels, September 12, 1919.....	2751½	1691
Def'ts' Exhibits Nos. D-597 and D-598—Correspondence between B. L. Swett and A. D. Naylor.....	2752½	1692
Def'ts' Exhibit No. D-599—Letter from Giant Portland Cement Co. to Sorco Pipe & Supply Co., January 9, 1920	2753½	1692
Def'ts' Exhibit No. D-600—Letter from A. H. Moses to Clarksburg Coal Sales Co., February 2, 1920.....	2754	1693

	Original	Print
Def'ts' Exhibit No. D-601—Letter from Clarksburg Coal Sales Co. to Edison Portland Cement Co., January 30, 1920.....	2754½	1694
Def'ts' Exhibit No. D-602—Letter from A. H. Moses to Benjamin Bissell, February 4, 1920.....	2755	1964
Def'ts' Exhibits Nos. D-603 and D-604—Telegrams from A. H. Moses to Davis Coal Co., March 10, 1920, and February 23, 1920.....	2755½	1695
Def'ts' Exhibit No. D-605—Letter from Edison Portland Cement Co. to Bixler Coal & Coke Co., February 25, 1920.....	2756½	1696
Def'ts' Exhibit No. D-606—Letter from A. H. Moses to Operators' Fuel Co., March 9, 1920.....	2757	1696
Def'ts' Exhibit No. D-607—Letter from A. H. Moses to Fisher Summit Coal Co., March 8, 1920.....	2757½	1697
Def'ts' Exhibit No. D-608—Letter from A. H. Moses to Moore & Co., Inc., March 24, 1920.....	2758	1697
Def'ts' Exhibit No. D-609—Letter from Giant Portland Cement Co. to P. & R. R. Co., February 19, 1920..	2758½	1697
Def'ts' Exhibit No. D-610—Circular from Security Cement & Lime Co., February 21, 1920.....	2759½	1698
Def'ts' Exhibit No. D-611—Letter from Giant Portland Cement Company to American Hardware & Equipment Co., February 23, 1920.....	2760½	1699
Def'ts' Exhibit No. D-612—Letter from Phoenix Portland Cement Co. to Commonwealth Fuel Co., March 1, 1920.....	2761	1699
Def'ts' Exhibit No. D-613—Letter from J. E. Long to Penn-Allen Cement Co., March 1, 1920.....	2761½	1699
Def'ts' Exhibit No. D-614—Letter from S. N. Peters to W. P. Rogers, March 3, 1920.....	2762½	1700
Def'ts' Exhibit No. D-615—Letter from Giant Portland Cement Co. to Thomas Hardware Co., March 3, 1920	2763½	1700
Def'ts' Exhibit No. D-616—Letter from Phoenix Portland Cement Co. to George Paull, March 6, 1920....	2764	1701
Def'ts' Exhibit No. D-617—Letter from S. N. Peters to F. T. Brinkley, March 17, 1920.....	2764½	1701
Def'ts' Exhibits Nos. D-618 and D-619—Correspondence between Geo. W. Pack & Son, Inc., and Bath Portland Cement Co.....	2765	1701
Def'ts' Exhibit No. D-620—Letter to Wm. C. Mallonee, March 18, 1920.....	2766	1702
Def'ts' Exhibit No. D-621—Telegram from S. N. Peters to W. C. Mallonee, March 18, 1920.....	2767	1703
Def'ts' Exhibits Nos. D-622 and D-623—Correspondence between Bath Portland Cement Co. and Hendrickson and Dilatush.....	2767½	1703
Def'ts' Exhibit No. D-624—Telegram from Bath Portland Cement Co. to C. T. Kingsbury, April 24, 1920.	2768½	1704

INDEX

xliii

	Original	Print
Def'ts' Exhibit No. D-625—Letter from Bath Portland Cement Co. to W. J. Kenlon, May 3, 1920.....	2769	1704
Def'ts' Exhibit No. D-626—Letter from W. J. Kenlon to W. G. Dutton, May 1, 1920.....	2769½	1704
Def'ts' Exhibit No. D-627—Telegram from Giant Portland Cement Company to C. R. Capps, May 3, 1920..	2770	1705
Def'ts' Exhibit No. D-628—Telegram from C. R. Capps to Giant Portland Cement Co., May 4, 1920.....	2770½	1705
Def'ts' Exhibit No. D-629—Telegram from George Paull to L. C. Morton, May 5, 1920.....	2771	1705
Def'ts' Exhibit No. D-630—Telegram from L. C. Morton to George Paull, May 6, 1920.....	2771½	1706
Def'ts' Exhibit No. D-631—Telegram from George Paull to L. C. Morton, May 6, 1920.....	2772	1706
Def'ts' Exhibit No. D-632—Telegram from Commonwealth Fuel Co. to L. C. Morton, May 7, 1920.....	2772½	1706
Def'ts' Exhibit No. D-633—Telegram from Geo. Paull to L. C. Morton, May 10, 1920.....	2773	1706
Def'ts' Exhibit No. D-634—Telegram from Commonwealth Fuel Co. to L. C. Morton, May 12, 1920....	2773½	1707
Def'ts' Exhibit No. D-635—Letter from Bath Portland Cement Co. to Ohio Coal & Supply Co., May 18, 1920	2774	1707
Def'ts' Exhibit No. D-636—Letter from F. B. Franks to Louis Rafetto, May 22, 1920.....	2775	1708
Def'ts' Exhibit No. D-637—Circular from Alpha Portland Cement Co.....	2775½	1708
Def'ts' Exhibit No. D-638—Tabulation showing percentage of total cash dividends bear to replacement value, working capital, and rock deposit.....	2779	1708
Def'ts' Exhibit No. D-639—Tabulation showing percentage of dividends to total capitalization, 1913-1921	2780	1708
Def'ts' Exhibit No. D-640—Tabulation showing replacement value, working capital, rock deposit, and percentage of net earnings to total reported to Government, 1919-1920.....	2789	1708
Def'ts' Exhibit No. D-641—Tabulation showing some instances wherein specific job contract reports show contracts at the same delivery point at different prices on approximately the same date.....	2790	1708
Def'ts' Exhibit No. D-642—Telegram from Lehigh Portland Cement Co. to office, October 19, 1916.....	2835	1709
Def'ts' Exhibit No. D-643—Letter from R. E. Griffith to S. N. Peters, October 20, 1919.....	2835½	1709
Def'ts' Exhibit No. D-644—Letter from L. V. Costello to D. H. MacFarland, October 20, 1916.....	2836	1709
Def'ts' Exhibit No. D-645—Letter from A. L. Stark to C. A. Kimball, October 20, 1916.....	2836½	1710

	Original	Print
Def'ts' Exhibits Nos. D-646 and D-647—Price memorandums, Atlas Portland Cement Co., October 20, 1916	2837	1710
Def'ts' Exhibit No. D-648—Memorandum from L. G. McConnell to Atlas Portland Cement Co., November 13, 1916.....	2838½	1711
Def'ts' Exhibit No. D-649—Telegram from Atlas Portland Cement Co. to Atlas Portland Cement Co., November 13, 1916.....	2839	1712
Def'ts' Exhibit No. D-650—Letter from F. B. M. to Atlas Portland Cement Co., November 13, 1916.....	2839½	1712
Def'ts' Exhibit No. D-651—Letter from Coplay Cement Mfg. Co. to Mr. Dutton, November 21, 1916.....	2840½	1713
Def'ts' Exhibit No. D-652—Telegram from Lehigh Portland Cement Co. to L. E. Browning, January 12, 1917	2841	1713
Def'ts' Exhibit No. D-653—Price memorandum, Atlas Portland Cement Co., January 15, 1917.....	2841½	1714
Def'ts' Exhibit No. D-656—Telegram from R. E. Griffith to Giant Portland Cement Co., January 15, 1917	2845	1717
Def'ts' Exhibit No. D-657—Letter from Nazareth Cement Co. to J. W. Ramsay, January 16, 1917.....	2845½	1717
Def'ts' Exhibit No. D-658—Salesman's report, H. A. Sweit, Lehigh Co., February 24, 1917.....	2846	1717
Def'ts' Exhibit No. D-659—Letter from F. B. M. to The Atlas Portland Cement Co., March 17, 1917.....	2847	1718
Def'ts' Exhibit No. D-660—Telegram from Lehigh Portland Cement Co. to Herbert Gray, March 26, 1917	2847½	1719
Def'ts' Exhibit No. D-661—Telegram from R. E. Griffith to Giant Portland Cement Co., March 27, 1917	2848	1719
Def'ts' Exhibits Nos. D-662 and D-663—Telegrams between D. H. MacFarland and L. G. McConnell.....	2848½	1719
Def'ts' Exhibit No. D-664—Letter from L. G. McConnell to Mr. McKenna, May 4, 1917.....	2849½	1720
Def'ts' Exhibit No. D-665—Telegram from W. E. Erdell to E. G. Brick, March 20, 1918.....	2850½	1720
Def'ts' Exhibit No. D-666—Letter from Penn-Allen to W. B. Abbey, March 20, 1918.....	2851	1721
Def'ts' Exhibit No. D-667—Telegram from R. E. Griffith to S. N. Peters, March 20, 1918.....	2851½	1721
Def'ts' Exhibit No. D-668—Letter from Alpha Portland Cement Co. to Alpha Portland Cement Co., March 21, 1918.....	2852	1721
Def'ts' Exhibit No. D-669—Letter from F. M. Coogan to Mr. Kent, March 21, 1918.....	2852½	1721
Def'ts' Exhibit No. D-670—Letter from F. M. Coogan to Mr. Santee, March 21, 1918.....	2853	1722

INDEX

xliv

	Original	Print
Def'ts' Exhibit No. D-671—Representatives notice No. 80, March 21, 1918.....	2853½	1722
Def'ts' Exhibit No. D-672—Telegram from Lehigh Portland Cement Co. to W. W. Harder, March 22, 1918..	2854½	1723
Def'ts' Exhibit No. D-673—Letter from F. H. Smith to Lawrence Cement Co., March 23, 1918.....	2855	1723
Def'ts' Exhibit No. D-674—Letter from E. B. Goode to P. A. Holcombe, April 4, 1918.....	2855½	1724
Def'ts' Exhibit No. D-675—Letter from S. Tredennick to R. L. Cope, April 24, 1918.....	2856½	1725
Def'ts' Exhibit No. D-676—Letter from R. L. Cope to H. Wales Lines Co., April 25, 1918.....	2858	1726
Def'ts' Exhibit No. D-677—Telegram from A. T. Reynolds to Pennsylvania Cement Co., June 13, 1918....	2859	1726
Def'ts' Exhibit No. D-678—Letter from Giant Portland Cement Co. to Windsor Cement Co., April 3, 1918..	2859½	1727
Def'ts' Exhibit No. D-679—Letter from J. R. Morron to cement companies, January 9, 1919.....	2860	1727
Def'ts' Exhibit No. D-680—Letter from R. L. Humphrey to J. R. Morron, December 19, 1918.....	2860½	1727
Def'ts' Exhibit No. D-681—Letter from B. M. Baruch to J. R. Morron, December 18, 1918.....	2861½	1728
Def'ts' Exhibit No. D-682—Letter from J. R. Morron to Mr. MacFarland, January 30, 1920.....	2862½	1729
Def'ts' Exhibit No. D-683—Letter to Mr. MacFarland, February 16, 1920.....	2863½	1730
Def'ts' Exhibit No. D-685—Circular from The Atlas Portland Cement Co., April 11, 1919.....	2865	1730
Def'ts' Exhibit No. D-686—Circular from The Lehigh Portland Cement Co., April 14, 1919.....	2866	1731
Def'ts' Exhibit No. D-687—Letter from J. R. Morron to D. H. MacFarland, June 14, 1919.....	2867	1732
Def'ts' Exhibit No. D-688—Letter from R. A. Wetzler to Mr. Whitton, December 26, 1919.....	2868	1733
Def'ts' Exhibits Nos. D-689 and D-690—Telegrams from Atlas Portland Cement Co. to Atlas Portland Cement Co., December 15 and 18, 1919.....	2869	1733
Def'ts' Exhibits Nos. D-691 and D-692—Letters from F. G. Conkling to L. G. McConnell, December 15 and 16, 1919.....	2870	1734
Def'ts' Exhibit No. D-693—Bulletin from Giant Portland Cement Co., December 20, 1919.....	2871	1735
Def'ts' Exhibit No. D-694—Letter from W. D. Cloos to Mr. Wetzler, January 9, 1920.....	2872	1735
Def'ts' Exhibit No. D-695—Salesman's report, Brown-ing, Lehigh Company, December 20, 1919.....	2873	1736
Def'ts' Exhibits Nos. D-697 and D-698—Letters from J. R. Morron to D. H. MacFarland, January 24, and February 4, 1920.....	2874	1737

	Original	Print
Def'ts' Exhibit No. D-699—Letter from J. F. Forsyth to Atlas Portland Cement Co., March 10, 1920.....	2876	1739
Def'ts' Exhibit No. D-700—Letter from H. F. D. to F. B. McKenna, March 13, 1920.....	2877	1739
Def'ts' Exhibit No. D-701—Letter from W. G. Dutton to A. E. La Roche, May 26, 1920.....	2878	1740
Def'ts' Exhibit No. D-702—Letter from J. H. Porter to S. N. Peters, June 1, 1920.....	2879	1741
Def'ts' Exhibit No. D-703—Letter from S. N. Peters to Carolina Building Material Co., June 4, 1920.....	2880	1741
Def'ts' Exhibit No. D-704—Letter from W. G. Dutton to J. P. Stewart, June 3, 1920.....	2881	1742
Def'ts' Exhibit No. D-705—Letter from W. S. Dutton to Quinlan & Robertson, Inc., June 4, 1920.....	2882	1742
Def'ts' Exhibit No. D-706—Letter from A. E. Le Roche to Bath Portland Cement Co., June 2, 1920.....	2883	1743
Def'ts' Exhibit No. D-707—Letter from B. F. Abbott to Mr. Naylor, June 10, 1920.....	2884	1744
Def'ts' Exhibit No. D-708—Letter from A. D. Naylor to Mr. White, June 15, 1920.....	2885	1745
Def'ts' Exhibit No. D-709—Letter from A. D. Naylor to Mr. Wasson, June 16, 1920.....	2886	1745
Def'ts' Exhibit No. D-710—Letter from O. E. Wasson to Knickerbocker Portland Cement Co., Inc., June 15, 1920.....	2887	1746
Def'ts' Exhibit No. D-711—Letter from S. N. Peters to J. H. Wickersham, July 1, 1920.....	2888	1747
Def'ts' Exhibit No. D-712—Letter from F. B. Franks to Louis Rafetto, July 2, 1920.....	2889	1749
Def'ts' Exhibit No. D-713—Letter from W. P. Dutton to C. M. Schaeffer, July 2, 1920.....	2890	1748
Def'ts' Exhibit No. D-714—Letter from B. J. White to Mr. Naylor, July 2, 1920.....	2891	1749
Def'ts' Exhibit No. D-715—Letter from A. D. Naylor to A. R. Miller, Jr., July 6, 1920.....	2892	1750
Def'ts' Exhibit No. D-716—Telegram from A. R. Miller, Jr., to A. D. Naylor, July 3, 1920.....	2893	1750
Def'ts' Exhibit No. D-717—Letter from F. B. Franks to B. & O. R. R. Co., July 7, 1920.....	2893	1750
Def'ts' Exhibit No. D-718—Letter from A. N. G. to O. W. Stager, July 7, 1920.....	2894	1751
Def'ts' Exhibit No. D-719—Letter from A. N. G. to R. C. Morse, July 7, 1920.....	2895	1752
Def'ts' Exhibit No. D-720—Letter from A. D. Naylor to J. J. McCann, August 10, 1920.....	2896	1753
Def'ts' Exhibits Nos. D-721 and D-722—Correspondence between A. D. Naylor and Mr. Wasson.....	2897	1753
Def'ts' Exhibit No. D-723—Letter from J. T. Phelan to J. W. Fuller, August 20, 1920.....	2899	1754
Def'ts' Exhibit No. D-724—Letter from F. G. Robbins to Giant Portland Cement Co., October 9, 1920.....	2900	1755

INDEX

xlvi

	Original	Print
Def'ts' Exhibit No. D-725—Letter from O. W. Stager to R. C. Lea, October 23, 1920.....	2901	1755
Def'ts' Exhibit No. D-726—Letter from R. A. Wetzler to C. M. Edwards, March 1, 1920.....	2902	1756
Def'ts' Exhibit No. D-727—Letter from J. A. Feeks to A. D. Naylor, March 4, 1920.....	2903	1756
Def'ts' Exhibit No. D-728—Letter from R. A. Wetzler to Mr. Furbush, March 30, 1920.....	2904	1757
Def'ts' Exhibit No. D-729—Telegram from Dexter Portland Cement Co., April 7, 1920.....	2905	1757
Def'ts' Exhibit No. D-730—Telegram from Lehigh Portland Cement Co. to Lehigh Portland Cement Co., April 7, 1920.....	2906	1758
Def'ts' Exhibit No. D-731—Letters from S. N. Peters to Giant Portland Cement Co., April 7, 1920.....	2906	1758
Def'ts' Exhibit No. D-732—Letter from W. G. Dutton to W. J. Kenlon, April 7, 1920.....	2907	1758
Def'ts' Exhibit No. D-733—Telegram from Pennsylvania Cement Co. to W. H. Watson, April 7, 1920....	2908	1759
Def'ts' Exhibit No. D-734—Price memorandum of The Edison Portland Cement Co., April 8, 1920.....	2909	1759
Def'ts' Exhibit No. D-735—Letter from W. A. M. to F. B. McKenna, April 7, 1920.....	2910	1760
Def'ts' Exhibit No. D-736—Letter from L. R. Burch to J. R. Morron, April 8, 1920.....	2910	1760
Def'ts' Exhibit No. D-737—Salesman's report, Wm. H. Jones, Atlas Company, April 8, 1920.....	2911	1761
Def'ts' Exhibit No. D-738—Letter from A. H. S., April 8, 1920.....	2911	1761
Def'ts' Exhibit No. D-739—Letter from The Atlas Portland Cement Company to dealers, April 8, 1920.....	2912	1761
Def'ts' Exhibit No. D-740—Letter from Atlas Portland Cement Co. to L. G. McConnell, April 9, 1920.....	2913	1762
Def'ts' Exhibit No. D-741—Letter from R. A. Pruden to F. H. Smith, April 8, 1920.....	2914	1763
Def'ts' Exhibit No. D-742—Letter from Coplay Cement Mfg. Co. to W. G. Zipp, April 9, 1920.....	2914	1763
Def'ts' Exhibit No. D-743—Letter from Coplay Cement Mfg. Co. to L. R. Cutler, April 9, 1920.....	2915	1763
Def'ts' Exhibit No. D-744—Letter from C. H. Cox to S. R. Kepner & Co., April 16, 1920.....	2916	1764
Def'ts' Exhibit No. D-745—Letter from S. N. Peters to Giant Portland Cement Co., April 17, 1920.....	2916	1764
Def'ts' Exhibit No. D-746—Letter from E. B. Goode to sales force, May 3, 1920.....	2917	1764
Def'ts' Exhibit No. D-747—Letter from J. W. Ramsay to J. A. Horner, May 29, 1920.....	2918	1765
Def'ts' Exhibit No. D-748—Letter from F. A. Weibel to salesman, June 16, 1920.....	2919	1765

	Original	Print
Def'ts' Exhibit No. D-749—Telegram from Lehigh Portland Cement Co. to Lehigh Portland Cement Co., June 8, 1920.....	2919	1766
Def'ts' Exhibit No. D-750—Circular from Edison Portland Cement Co., June 21, 1920.....	2920	1766
Def'ts' Exhibit No. D-751—Letter from Atlas Portland Cement Co. to L. R. Burch, June 19, 1920.....	2921	1766
Def'ts' Exhibit No. D-752—Telegram from F. A. Boeye to Atlas Portland Cement Co., June 18, 1920.....	2922	1767
Def'ts' Exhibit No. D-753—Letter from W. M. Floring to "Our Customers," June 18, 1920.....	2923	1767
Def'ts' Exhibit No. D-754—Letter from M. C. Wall to Mr. Van Wagner, June 21, 1920.....	2924	1767
Def'ts' Exhibit No. D-755—Letter from Atlas Portland Cement Co. to Mr. Burch, June 21, 1920.....	2924	1768
Def'ts' Exhibit No. D-756—Letter from L. G. McConnell to L. R. Burch, June 22, 1920.....	2925	1768
Def'ts' Exhibit No. D-757—Salesman's report, W. H. Jones, Atlas Co., June 23, 1920.....	2926	1768
Def'ts' Exhibits Nos. D-758 and D-759—Letters from L. G. McConnell to eastern districts, June 23 and 24, 1920	2926	1769
Def'ts' Exhibit No. D-760—Letter from S. N. Peters to Giant Portland Cement Co., June 22, 1920.....	2928	1769
Def'ts' Exhibit No. D-761—Letter from D. S. MacKenzie to C. H. Cox, June 21, 1920.....	2929	1770
Def'ts' Exhibit No. D-762—Letter from C. H. Cox to Donald MacKenzie, June 22, 1920.....	2930	1770
Def'ts' Exhibit No. D-763—Letter from E. B. Goode to sales force, June 23, 1920.....	2931	1771
Def'ts' Exhibit No. D-764—Letter from W. D. Cloos to Mr. Wetzler, June 26, 1920.....	2932	1771
Def'ts' Exhibit No. D-765—Circular from Edison Portland Cement Co., July 1, 1920.....	2933	1772
Def'ts' Exhibit No. D-766—Letter from R. A. Wetzler to Mr. Bigbee et al., July 1, 1920.....	2934	1774
Def'ts' Exhibit No. D-767—Letter from R. A. Wetzler to Mr. Whitton et al., July 16, 1920.....	2935	1774
Def'ts' Exhibit No. D-768—Telegram from Lehigh Portland Cement Co. to Lehigh Portland Cement Co., July 13, 1920.....	2936	1775
Def'ts' Exhibits Nos. D-769 to D-772—Correspondence between L. G. McConnell and Atlas Portland Cement Co.	2936	1775
Def'ts' Exhibit No. D-773—Quotation from Atlas Portland Cement Co.....	2939	1777
Def'ts' Exhibit No. D-775—Letter from J. W. Ramsay to J. A. Horner, July 15, 1920.....	2940	1777
Def'ts' Exhibit No. D-776—Letter from R. A. Wetzler to Mr. Kahn et al., July 16, 1920.....	2940	1778

INDEX

xlix

	Original	Print
Def'ts' Exhibit No. D-777—Letter from general sales manager to Giant Portland Cement Co., July 17, 1920	2941	1778
Def'ts' Exhibit No. D-778—Letter from E. B. Goode to sales force, July 18, 1920.....	2942	1778
Def'ts' Exhibit No. D-779—Representatives notice No. 112, Dexter Portland Cement Co.....	2943	1779
Def'ts' Exhibit No. D-780—Letter from J. W. Ramsay to J. A. Horner, July 28, 1920.....	2944	1780
Def'ts' Exhibit No. D-781—Telegram from Pennsylvania Cement Co. to H. A. Meech, October 15, 1920...	2945	1780
Def'ts' Exhibit No. D-782—Letter from R. A. Wetzler to Mr. Whitten et al., July 28, 1920.....	2946	1781
Def'ts' Exhibit No. D-784—Circular from Edison Portland Cement Co., October 1, 1920.....	2947	1781
Def'ts' Exhibit No. D-785—Letter from W. D. Cloos to Mr. Bruff et al., October 14, 1920.....	2948	1781
Def'ts' Exhibit No. D-786—Circular from Edison Portland Cement Co., October 18, 1920.....	2949	1782
Def'ts' Exhibit No. D-787—Letter from D. Mackenzie to C. H. Cox, October 20, 1920.....	2950	1782
Def'ts' Exhibit No. D-788—Letter from C. H. Cox to P. E. Bradlee, October 14, 1920.....	2951	1783
Def'ts' Exhibit No. D-789—Letter from W. G. Dutton to Mr. Franks, November 6, 1920.....	2952	1783
Def'ts' Exhibit No. D-791—Salesman's report, H. H. Beans, Lehigh Company, November 27, 1920.....	2953	1784
Def'ts' Exhibit No. D-792—Telegram from Lehigh Portland Cement Co. to Lehigh Portland Cement Co., December 1, 1920.....	2954	1785
Def'ts' Exhibit No. D-793—Telegram from L. G. McConnell to J. R. Morron, December 2, 1920.....	2954	1785
Def'ts' Exhibits Nos. D-794, D-795, D-796—Telegrams between L. G. McConnell and J. R. Morron.....	2955	1786
Def'ts' Exhibit No. D-797—Letter from L. G. McConnell to J. R. Morron, December 3, 1920.....	2957	1787
Def'ts' Exhibit No. D-798—Letter from L. G. McConnell to eastern districts, December 3, 1920.....	2958	1788
Def'ts' Exhibit No. D-799—Telegram from J. R. Morron to L. G. McConnell, December 3, 1920.....	2959	1788
Def'ts' Exhibit No. D-800—Letter from F. A. Boeye to L. G. McConnell, December 2, 1920.....	2959	1788
Def'ts' Exhibit No. D-801—Letter from R. W. Hilles to H. Wales Lines Co., December 2, 1920.....	2960	1789
Def'ts' Exhibit No. D-802—Letter from Edison Portland Cement Co. to Sullivan-Sikora, December 2, 1920	2961	1789
Def'ts' Exhibit No. D-804—Telegram from Dexter Portland Cement Co. to H. Wales Lines Co., December 6, 1920	2962	1790

	Original	Print
Def'ts' Exhibit No. D-805—Letter from E. P. Alker to H. C. Carpenter, December 7, 1920.....	2962	1790
Def'ts' Exhibit No. D-806—Salesman's report, Brown- ing, Lehigh Company, January 1, 1921.....	2963	1790
Def'ts' Exhibit No. D-807—Letter from eastern sales manager to Richmond office, January 25, 1921.....	2964	1791
Def'ts' Exhibit No. D-808—Salesman's report, F. W. Douglas, Lehigh Company, April 16, 1921.....	2965	1791
Def'ts' Exhibit No. D-809—Letter from J. P. T. to L. R. Burch, January 26, 1921.....	2966	1792
Def'ts' Exhibit No. D-810—Letter from E. W. C. to L. R. Burch, January 26, 1921.....	2966	1792
Def'ts' Exhibit No. D-811—Letter from G. E. Smith to E. Jeynes, January 11, 1921.....	2967	1793
Def'ts' Exhibit No. D-812—Letter from W. C. B. to New York State district, January 26, 1921.....	2967	1793
Def'ts' Exhibit No. D-813—Letter from Atlas Portland Cement Co. to salesmen, January 27, 1921.....	2968	1793
Def'ts' Exhibit No. D-814—Letter to J. P. Tully, Janu- ary 27, 1921.....	2969	1794
Def'ts' Exhibit No. D-815—Letter from J. R. West to offices, January 25, 1921.....	2969	1794
Def'ts' Exhibit No. D-816—Letter from Edison Port- land Cement Co. to A. C. Bruff, January 26, 1921....	2970	1795
Def'ts' Exhibit No. D-817—Letter from Nazareth Ce- ment Company to the offices, February 7, 1921....	2970	1795
Def'ts' Exhibit No. D-819—Salesman's report, W. W. Harder, Lehigh Company, August 30, 1919.....	2971	1796
Def'ts' Exhibit No. D-820—Letter from L. G. McCon- nell to F. B. McKenna, October 20, 1920.....	2972	1797
Opinion, Knox, J.....	2974	1797
Final decree.....	2988	1809
Order amending final decree.....	2993	1813
Petition for and order allowing appeal.....	2995	1814
Assignment of errors.....	2998	1815
Bond on appeal.....(omitted in printing)..	3003	1816
Citation and service.....(omitted in printing)..	3006	1816
Order re transcript of record.....	3009	1817
Stipulation re transcript of record.....	3012	1817
Clerk's certificate.....	3015	1818
Citation and service.....(omitted in printing)..	3016	1818

[fols. 1-4] **IN UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA, Plaintiff

v.

CEMENT MANUFACTURERS PROTECTIVE ASSOCIATION, THE ATLAS Portland Cement Company, The Allentown Portland Cement Company, Alpha Portland Cement Company, Bath Portland Cement Company, Coplay Cement Manufacturing Company, Dexter Portland Cement Company, The Edison Portland Cement Company, Giant Portland Cement Company, The Glens Falls Portland Cement Company, Hercules Cement Corporation, Knickerbocker Portland Cement Company, Inc.; Lawrence Cement Company, Lehigh Portland Cement Company, Nazareth Cement Company, Penn-Allen Cement Company, Pennsylvania Cement Company, The Phoenix Portland Cement Company, Security Cement and Lime Company, The Vulcanite Portland Cement Company, E. P. Alker, C. Raymond Hulsart, Miss M. B. Phalen, and Marion S. Ackerman, Defendants.

[fol. 4½]

BILL OF COMPLAINT

I

The Parties

The United States of America, by its attorney for the Southern District of New York acting under the direction of the Attorney General, brings this proceeding in equity against Cement Manufacturers Protective Association, an unincorporated organization, having its office at 19 West 44th Street, New York City, in the Southern District of New York, and the following officers and members thereof:

Officers of Cement Manufacturers Protective Association

Name	Office	Address
E. P. Alker.....	President.....	30 East 42d Street, New York City, N. Y.
C. Raymond Hulsart.....	Vice president...	19 West 44th Street, New City, N. Y.
Miss M. B. Phalen.....	Secretary.....	19 West 44th Street, New York City, N. Y.
Marion S. Ackerman.....	Treasurer.....	302 Broadway, New York City, N. Y.

Members of Cement Manufacturers Protective Association

Name	State of Incorporation	Location of mills
The Atlas Portland Cement Company.	Pennsylvania....	Coplay, Pa.; Northampton, Pa.; Hudson, N. Y.
The Allentown Portland Cement Company.	New Jersey.....	Evansville, Pa.
Alpha Portland Cement Company.	New Jersey.....	Manheim, W. Va.; Alpha, N. J.; Martins Creek, Pa.; Cementon, N. Y.; Jamesville, N. Y.
Bath Portland Cement Company.	Pennsylvania....	Bath, Pa.
Coplay Cement Manufacturing Company.	Pennsylvania....	Coplay and Saylor's, Pa.
Dexter Portland Cement Company.	Pennsylvania....	Nazareth, Pa.
The Edison Portland Cement Company.	New Jersey.....	New Village, N. J.
Giant Portland Cement Company.	Delaware.....	Egypt, Pa., and Norfolk, Va.
The Glens Falls Portland Cement Company.	New York.....	Glens Falls, N. Y.
[fol. 5] Hercules Cement Corporation.	Pennsylvania....	Hercules, Pa.
Knickerbocker Portland Cement Company, Inc.	New York.....	Hudson, N. Y.
Lawrence Cement Company.	New York.....	Siegfried, Pa.
Lehigh Portland Cement Company.	Pennsylvania....	Orinrod, West Coplay, Fogelsville, and Newcastle, Pa.; Fordwick, Va.
Nazareth Cement Company.	Pennsylvania....	Nazareth, Pa.
Penn-Allen Cement Company.	Pennsylvania....	Nazareth, Pa.
Pennsylvania Cement Company.	Pennsylvania....	Bath, Pa.
The Phoenix Portland Cement Company.	Pennsylvania....	Nazareth, Pa.
Security Cement and Lime Company.	West Virginia...	Security, Md.; Martinsburg, W. Va.
The Vulcanite Portland Cement Company.	New Jersey.....	Vulcanite, N. J.

The Cement Manufacturers Protective Association above described will be hereinafter referred to as defendant Eastern Association.

The Officers of the Cement Manufacturers Protective Association above described will be hereinafter referred to as individual defendants.

The members of the Cement Manufacturers Protective Association above described will be hereinafter referred to as defendant corporations.

Defendant Eastern Association, the individual defendants and defendant corporations, will be hereinafter referred to as defendants.

II

Jurisdiction

Defendant Eastern Association maintains its office in New York City, in the Southern District of New York, from which its business [fol. 5½] is conducted by the individual defendants; and defendant corporations through duly accredited representatives attend meetings of said Association held from time to time in New York City, in the Southern District of New York.

Defendant corporations (except Lawrence Cement Company, which is sales agent for The Lawrence Portland Cement Company, a Pennsylvania corporation, with its mill at Siegfried, Pa.), are engaged in the manufacture of Portland cement at mills situated in the States of New York, New Jersey, Pennsylvania, Maryland, Virginia, and West Virginia, from which mills large quantities of Portland cement are sold and shipped in interstate trade and commerce throughout said States, and particularly into New York City, in the Southern District of New York, and into the States of Delaware, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia.

Defendant corporations, with the exception of The Glens Falls Company, The Phoenix Company and Security Company, maintain offices in New York City, in the Southern District of New York.

Defendants have been and now are unlawfully restraining interstate trade and commerce in Portland cement in violation of the provisions of section 1 of the Act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies" (26 Stat., 209), known as the Sherman Anti-Trust Act, and this proceeding is brought under section 4 of said Act to [fol. 6] prevent and restrain the combinations and conspiracies hereinafter particularly described by means of which said unlawful restraint of interstate trade and commerce in Portland cement has been and is being accomplished.

III

The Commodity

In 1824 Mr. Joseph Aspdin, of Leeds, England, received a British patent for a cementing product which he named Portland cement. The name was due to a rather fanciful resemblance between the set cement and a well-known English building stone—the oolitic limestone of Portland.

In spite of the rather rapid development of the Portland cement industry abroad, particularly in England and Germany, after 1850 or thereabout, it was not until the end of the third quarter of the nineteenth century that its manufacture was actively taken up in the United States. Then, like many other industries, it took life almost simultaneously in several parts of the country, experiments

in the manufacture of Portland cement being carried on almost or quite independently at a number of small plants in New York, in the so-called Lehigh district in western Pennsylvania, in Michigan, and in Maine.

Portland cement is now produced by burning a finely ground artificial mixture containing essentially lime, silica, alumina, and iron oxide in certain definite proportions. Usually this combination is made by mixing limestone or marl with clay or shale in such proportion that the mixture will contain about three parts of lime [fol. 6½] carbonate to one part of clayey materials. The mixture is burned at a high temperature, approaching 3,000° F., in kilns of special design and lining. During the burning the lime combines with the silica, alumina, and iron oxide, forming a semifused mass called "clinker," which consists of silicates, aluminates, and ferrites of lime in certain fairly definite proportions. This clinker must be finely ground and the resulting powder is known as Portland cement.

The marvelous growth of the Portland cement industry in the United States is indicated by the following table showing quantities produced during periods of 10 years from 1870 to 1920:

Period	Approximate quantities in barrels
1870-1880	124,000
1881-1890	1,770,500
1891-1900	25,429,354
1901-1910	401,900,643
1911-1920	864,247,719

Portland cement is now recognized as one of the most important building materials. It enters into competition with lumber, steel, brick, stone, hollow tile, etc. Its range of usefulness embraces practically every building enterprise from a small piece of sidewalk in the rural districts to the subways and skyscraping office buildings in the cities; from a small gutter to the Panama Canal; from a water trough to an ocean-going vessel.

IV

[fol. 7] General Conditions under Which the Portland Cement Industry has been Conducted Since 1902

As early as 1902 it was apparent that the manufacture of Portland cement was destined to become one of the leading industries in the United States. From the latter part of 1902 down to the present time the Portland cement industry in whole or in part has been subjected directly or indirectly to many restraining influences in the nature of agreements, combinations, and conspiracies entered into and carried out through the instrumentality of organizations known as associations.

The associations mentioned are unincorporated bodies organized along the lines of what have come to be generally known as the "Eddy Plan," "The New Competition," "Open Price Plan," and "Open Competition Plan." The forms of these plans vary in minor details, but the outstanding and most fundamental principle of all is the exchange between members of comprehensive statistical data which enables each to know what his competitors are doing and to conduct his business accordingly.

The National Association

The Association of American Portland Cement Manufacturers, an unincorporated body, was organized in the latter part of 1902, its first annual meeting having been held in the Bellevue Hotel, at Philadelphia, Pa., on December 9, 1902. The name of the association [fol. 7½] was changed to the Portland Cement Association at a meeting held in Chicago, Ill., on May 8-9-10, 1916. At the same meeting it was announced that the principal office of the association had been changed from Philadelphia to Chicago, where it has been since maintained. The association also maintains branch offices in 21 cities throughout the United States. Practically every company manufacturing cement in the United States is a member of this association. This association will be hereinafter referred to as the National Association.

Defendant corporations are members of said National Association and representatives of certain of them participated in its organization and have taken an active part in the conduct of its affairs from the date of organization. The size, power, and importance of the National Association is indicated by its statement in 1913 that "the shipments of the members now amount to 95 per cent of all shipments" of Portland cement in the United States.

The National Association has held meetings from time to time in various cities, including Philadelphia, Pa., New York City, N. Y., Atlantic City, N. J., Detroit, Mich., Cleveland, Ohio, and San Francisco, Calif., which were largely attended by representatives of member companies from all sections of the United States where Portland cement is manufactured.

The activities of the National Association which plaintiff alleges have facilitated the accomplishment of the unlawful restraint of [fol. 8] interstate trade and commerce in Portland cement complained of will be hereinafter more fully set forth under Section VI of this petition, entitled "The Means."

License Association—Abandoned

During the period from 1908 to 1911, certain of the defendant corporations, viz., Atlas, Alpha, Bath, Dexter, Edison, Glens Falls, Lawrence, Lehigh, Phoenix, and Vulcanite, were organized together as members of the Association of Licensed Cement Manufacturers. The members of this association were licensed, by a corporation

organized by certain of the defendant corporations for that purpose, under a certain patent covering an apparatus employed in a particular process for manufacturing Portland cement. They were required under the license agreement entered into to sell Portland cement at certain scheduled "delivered prices," which were uniform for any given point of delivery, and to do numerous other things clearly in violation of the Sherman Anti-Trust Act.

This association was dissolved and abandoned by unanimous vote of the members on or about January 6, 1911. However, the validity of the patent had been previously attacked in litigation, and a short time after the dissolution of the association a court of appeals adjudged that the patent was non-basic and did not prevent the use of the same process by means of other apparatus.

Sectional Organizations

[fol. 8½] From 1902 to 1915 there existed one large outstanding association, the National Association above described, to which substantially all of the manufacturers of Portland cement throughout the United States belonged. By the year 1915 the Portland cement industry had become one of such magnitude and its members were scattered throughout such a vast territory that it was determined that certain of its duties, such as the collection, compilation, and distribution of statistical data which are of particular interest to mills located in the same territory, could be more satisfactorily and expeditiously performed by local or sectional organizations, thus leaving the National Association free to concentrate its efforts upon problems affecting the interests of the industry as a whole.

In pursuance of this plan the following sectional organizations were formed:

Cement Manufacturers Protective Association, with headquarters at New York City, N. Y.

The Midwest Cement Credit and Statistical Bureau, with headquarters at Chicago, Ill.

The Southern Audit and Statistical Bureau, with headquarters at Dallas, Tex.

Norcross Audit and Statistical Bureau, with headquarters at Kansas City, Mo.

Southern Statistical Bureau, with headquarters at Atlanta, Ga.

These sectional organizations have been and are now in continuous operation. They allege that they have no direct connection whatsoever with the National Association. However, practically all of the members of these sectional organizations are also members of the National Association.

This proceeding is directed against the Cement Manufacturers Protective Association, its officers and members. The National Association, its officers and members, and the other sectional organizations and their officers and members are not more fully described and made parties hereto for jurisdictional reasons, it being deemed more appropriate to proceed against them separately in the districts in which their activities are centered.

The Eastern Association

The Cement Manufacturers Protective Association, an unincorporated body above described and referred to as defendant Eastern Association, was organized at a meeting held at the Engineers' Club, New York City, N. Y., on January 6, 1916. The organization meeting was attended by accredited representatives of defendant corporations, Atlas Company, Alpha Company, Allentown Company, Coplay Company, Dexter Company, Edison Company, Giant Company, Glens Falls Company, Lawrence Company, Lehigh Company, Penn-Allen Company, Pennsylvania Company, Phoenix Company, and Vulcanite Company, engaged (except Lawrence Company) in the manufacture of Portland cement at mills situated in the States of New York, New Jersey, Pennsylvania, Virginia, and West Virginia. [fol. 9½] The office of the association was established at Philadelphia, Pa., and was maintained there until April 1, 1918, when it was removed to its present location in New York City.

The constitution of defendant Eastern Association states its objects to be the collection and dissemination of:

- (a) Information concerning credits.
- (b) Information concerning contracts which have been made for the delivery of cement, sufficiently complete to enable the manufacturer to protect himself against spurious contracts and like transactions induced by misrepresentation.
- (c) Information concerning freight rates on cement.
- (d) Statistical information as to production, stocks of cement and clinker on hand, and shipments.

Defendant corporations are now members of said Eastern Association; and representatives of the majority of them, in conjunction with the individual defendants and their predecessors in office, have actively participated in the conduct of its business from the date of organization. Defendant corporations manufacture between 25,000,000 and 30,000,000 barrels of Portland cement annually, which is upwards of 90 per cent of the quantity annually produced in the northeastern section of the United States.

Defendant Eastern Association has held frequent meetings, monthly, semi-monthly, and special, which were largely attended by representatives of defendant corporations.

The activities of defendant Eastern Association, which plaintiff [fol. 10] alleges have facilitated the accomplishment of the unlawful restraint of interstate trade and commerce in Portland cement complained of, will be hereinafter more fully set forth under Section VI of this petition, entitled "The Means."

Conditions During the War Period

Portland cement ranked next in importance to lumber as a war building material. Its prominence in the war program was realized

as early as April, 1917, when the congestion of government orders at certain points along the Atlantic seaboard threatened to cause local shortages and sharp rises in price. However, the production of cement was ample for the increased requirements of the war even without drawing on the excess production capacity of the cement mills. In fact, the declining consumption of cement resulting from the curtailment of normal building operations had more than offset the new orders for the Government, but to assure an adequate supply of cement for the Government it was deemed necessary to allocate the supply and to fix prices to be paid by the Government. The price to the general public was never fixed.

Representatives of the Government found the Portland cement industry already well organized, which facilitated the immediate appointment on April 21, 1917, of a "Cooperative Committee on Cement" comprised of representatives of the cement industry and of the Government.

The Committee fixed prices for Portland cement higher than the [fol. 10½] prices which had been obtained at any time during a period of 15 years preceding the war. However, the war prices were lower than the prices which have prevailed at any time since the Government relinquished control of prices. In fact, shortly after the termination of governmental supervision of prices of various commodities the price of Portland cement advanced by leaps and bounds until near the close of the year 1920, retailing in some instances as high as \$8 per barrel, more than four times the highest price fixed by the Government.

V

The Combination and Conspiracy

Defendant corporations, from the date each became affiliated with the National Association organized in 1902; defendant Eastern Association, from the date of its organization in 1916; the individual defendants, from the date each became an officer of defendant Eastern Association; and defendant corporations, from the date each became affiliated with defendant Eastern Association, and continuously thereafter up to the present time, and particularly since January 1, 1919, with full knowledge of all the facts hereinafter stated, (1) combined and conspired to adopt the ways and means hereinafter stated with the intent of restraining interstate trade and commerce in Portland cement, and with the intent of accomplishing and continuing the results hereinafter stated; and (2) by virtue of and through their membership in and connection with said associations, and their participation in the activities of said associations, [fol. 11] and by the ways and means hereinafter set forth, have knowingly engaged in, are now engaged in, and unless enjoined from so doing will continue to engage in an unlawful combination and conspiracy in restraint of interstate trade and commerce in Portland cement, in violation of section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce

against unlawful restraints and monopolies" (26 Stat., 209), known as the Sherman Anti-Trust Act.

VI

The Means

The said combination and conspiracy was brought about and accomplished in the manner and by the means now stated, viz:

1. Activities of the National Association

Defendant corporations are now members of said National Association; through duly accredited representatives certain of defendant corporations participated in its organization; each assists in its maintenance by the payment of annual dues based upon the number of barrels of Portland cement produced by it during the preceding year; each makes certain reports to said association and receives certain reports from said association; through duly accredited representatives each defendant corporation attends meetings of said National Association and is responsible for the acts of the association from the date each became affiliated therewith, said date being to the plaintiff unknown.

[fol. 11½]

Proceedings at Meetings

The proceedings of meetings which have been reported show, among other things:

(a) "Some sort of gentlemen's agreement that will be sacred to gentlemen" was openly advocated.

(b) Prices were frequently and freely discussed and higher prices persistently advocated, one member saying on one occasion, "I think the grass is green and the men who make the prices are likewise green."

(c) Curtailment of production was freely and openly discussed and advocated as an effective means of assuring higher prices.

(d) The forms of reports made to and issued by the association and how the information contained therein could be utilized to the best advantage were frequently discussed and explained.

(e) Withholding cement from the market, awaiting a fair price, was openly advocated.

(f) Uniform cost accounting systems were frequently advocated and the adoption thereof finally accomplished as to a large majority of defendant corporations.

Trade Practices

In September, 1915, May, 1916, September, 1917, and May, 1918, a committee of the National Association appointed for that purpose made reports on trade conditions affecting the cement industry and its conclusions and recommendations were adopted by the association, published in pamphlet form, and distributed to its [fol. 12] members. Briefly stated, these trade practices, 21 in number:

1. Defined a dealer.
2. Defined a consumer.
3. Suggested that dealers be discouraged in making sales of cement in carload lots at a smaller margin of profit than 10 cents per barrel.
4. Suggested that the customary cash discount be not allowed unless remittances were made actually within 10 days from date of invoice.
5. Suggested that payment of commissions to dealers on sales made directly to consumers be discontinued.
6. Advised against making quotations to dealers for delivery at towns other than their home towns, except under certain conditions.
7. Suggested a form of contract for use by dealers in connection with specific work contracts and urged that its use be insisted upon.
8. Suggested that dealers be required to make monthly reports of deliveries on specific work contracts "in order that the misuse of cement by dealers may be eliminated;" and provided a form for that purpose.
9. Defined a blanket contract as one covering unknown and uncertain requirements of dealers, contractors, or consumers for delivery beyond 15 days and advised that "the practice of making blanket contracts can not be too strongly condemned."
10. Recommended a form of "salesmen's order blanks" and urged that it be adopted and used.
- [fol. 12½] 11. Suggested "that in order to keep the situation more nearly in the control of the cement company, all trade quotations should be for immediate acceptance, 15-day shipment, and for not more than one carload each," and provided a form for use in this connection.
12. Advised against granting extensions in time of delivery.
13. Suggested that dealers be required to state in their bids the brand of cement they proposed to furnish.
14. Defined specific work as a job requiring a carload or more of cement for delivery for a specified period of time beyond 15 days.

15. Suggested that quotations for specific work should be for acceptance within 5 or 15 days, depending upon certain stated circumstances, and provided a form for use in making quotations.

16. Suggested that specific work sales contracts should accurately describe the work as to location, character, name of owner, contractor or other party doing the work, and provided a form to be used.

17. Suggested conditions under which sales should be made to railroad companies, etc.

18. Suggested that "when quotations are issued covering a change in price, the change in price should be made effective on the date quotations are written" in order to avoid price tipping.

19. Advised against guaranteeing prices against decline.

20. Recommended that no cement be sold or quoted on specific [fol. 13] cations other than those of United States Government or of the American Society for Testing Materials.

21. Recommended that charges for bin tests should be borne by the purchaser.

22. Recommended that under no circumstances should cement manufacturers bear the expense of commercial laboratory tests.

23. Suggested comprehensive rules and regulations with reference to handling sacks.

24. Urged that credit information be interchanged freely among cement companies.

New editions of these Trade Practices containing minor changes were published in 1916, 1918, and 1919. The practices have been generally adopted and observed throughout the industry, and especially by defendant corporations, and greatly facilitated the accomplishment of the said unlawful combination and conspiracy.

2. Activities of the Eastern Association

The individual defendants are now officers of defendant Eastern Association; defendant corporations are now members of defendant Eastern Association; through duly accredited representatives the majority of defendant corporations participated in its organization; each assists in its maintenance by the payment of annual dues based upon the number of barrels of Portland cement produced by it during the preceding year; each makes certain reports to said association and receives certain reports from said association; through duly accredited representatives each corporate defendant [fol. 13] 1/2 attends meetings of defendant Eastern Association and is responsible for the acts of the association from the date each became affiliated therewith, said date being to the petitioner unknown.

Proceedings at Meetings

Although it was originally contemplated that all proceedings of defendant Eastern Association would be stenographically reported and preserved, this has not been done. The proceedings of meetings which have been reported show, among other things:

(a) The object of the association was declared to be "cooperation," and it was announced that satisfactory cooperation could not be assured unless all manufacturers of Portland cement belonged to the association, since it was possible that "one or two companies staying out might destroy all the good work the rest of us might do."

(b) That members of the association were always fearful lest their activities might be considered to be in violation of the law.

(c) That the activities of the association, particularly the comprehensive system of reporting statistics, were considered confidential and secret.

(d) That the discount to be allowed in payment of invoices was frequently discussed and attention called to the fact that a discount is closely related to the price.

(e) Production capacity of mills of member companies was frequently and adroitly discussed in such a manner that it was not necessary to openly advocate curtailment of production.

(f) The employment of a force of checkers or inspectors to investigate contracts was discussed, one member suggesting that contractors might object to giving information to a man he considered to be a "detective from the cement trust." It was determined to employ a force of checkers, and this policy has been pursued since 1916.

(g) Diversion of cement from one job to another was opposed, except on condition that contractors pay the prevailing price if there had been an increase in price in the meantime.

(h) The importance of adopting a uniform cost-accounting system was discussed and dissatisfaction was expressed at the delay of the National Association in accomplishing that object.

(i) The credit to be allowed for bags returned was openly discussed and the importance of uniformity in that regard was pointed out.

(j) The subject of trade relations was discussed and determined to be within the province of the National Association. (See "Trade Practices" on p. 16.)

(k) The members of the association expressed satisfaction with the results accomplished.

Reports

Defendant Eastern Association, its officers and members, use between 25 and 30 forms of reports in connection with the collection, [fol. 14½] compilation, and dissemination of statistical data. The comprehensiveness of the system and the minute details reported are indicated by the following brief description of a number of the more important of the forms used:

Form 20. Used by manufacturers in reporting full details of specific job contracts.

Form 21. Used by manufacturers in reporting changes in specific job contracts.

Form 8. Summary report issued daily by association showing contracts filed with all members.

Form 1. Used by manufacturers in requesting further information about contracts taken by other manufacturers.

Form 2. Used by checkers or inspectors in reporting the results of investigations of contracts about which information is desired.

Form 5. Used by association in submitting checkers' reports on contracts under investigation.

Form 6. Used by manufacturers in expressing satisfaction with checkers' reports or requesting further investigation and pointing out possible discrepancies.

Form 22. Used by manufacturers in reporting monthly status of contracts.

Form 9. Used by association in sending out monthly summary of contracts of members.

Form 10. Quarterly report by association of all specific job contracts on file with member companies showing name of contractor, full description of work, quantity sold, the price, quantity delivered to date and balance to be shipped, etc.

[fol. 15] Form 23. Used by manufacturers in reporting monthly the quantity of clinker burned, cement ground, cement shipped, clinker in stock, and cement in stock.

Form 12. Summary of report issued monthly by association showing as to each member the quantity of clinker burned, cement ground, cement shipped, clinker in stock, and cement in stock, etc.

Form 24. Used by manufacturers in reporting semi-monthly total shipments during preceding period of 15 days.

Form 14. Summary report issued by association showing 15-day shipments by each member.

Form 26. Quarterly report by manufacturers showing bags returned.

Form 19. Quarterly report issued by Association showing as to each member the number of bags returned, the number accepted, and the number rejected.

This system of reports constitutes the most important of the various means employed by defendant Eastern Association, its officers and members, to accomplish said unlawful combination and conspiracy.

Defendant Eastern Association exchanges statistical data with the Midwest Association. Defendant corporations belonging to defend-

ant Eastern Association also belong to the National Association and make reports to that association.

3. Other Concerted Acts

Point of Delivery.—Defendant corporations, without exception, [fol. 15½] make all sales f. o. b. point of delivery, the purchaser paying the freight and being allowed credit therefor when making payment for the cement.

Freight Basing Points.—In the northeastern section of the United States the following points adjacent to certain groups of defendants' mills are among those used by defendant corporations as arbitrary basing points: Universal, Pa.; Lehigh Valley, Pa.; Hudson, N. Y.; and Fordwick, Va. The Lehigh Valley point is by far the most important, as upwards of 85 per cent of the entire quantity of cement consumed in the northeastern section of the United States is produced in that territory.

Freight Rate Books.—Defendant corporations caused to be compiled, printed, and distributed to members of defendant Eastern Association, books called "Freight Rate Books." These books show in convenient form the actual freight rates from the arbitrary basing points above described to practically every city and town in the northeastern section of the United States.

Mill Base Prices.—Defendant corporations establish from time to time so-called mill base prices for each freight basing point. For instance, at one time the basing price at Lehigh Valley, Pa., was \$2.30 per barrel, and at Hudson, N. Y., \$2.40 per barrel.

Charges and Credits for Bags.—Defendant corporations make the same charges and allow the same credits for bags.

4. Operation of Scheme as to Manufacturers.

The exchange of views at frequent meetings and the action taken [fol. 16] pursuant thereto, the concerted adoption and observance of the trade practices, and the dissemination of statistical data, as hereinabove set forth, together constitute a gigantic scheme of concerted action. In order to effectively execute said scheme of concerted action defendant corporations provided and have continued to provide defendant Eastern Association with the following salaried officers and employees: a vice president, hereinafter referred to as the manager; a secretary; a force of clerical assistants; and a force of traveling and investigating engineers known as "checkers."

Defendant corporations agreed to furnish the manager of said Eastern Association statements showing their several mill capacities for the production of Portland cement and instructed him to compile and distribute to all members statements showing all their several mill capacities, which was done. They also agreed to furnish and do furnish said manager monthly reports showing amounts of clinker burned, cement ground and cement shipped during the month, and the amounts of clinker in stock and cement in stock at the close of the month; and instructed him to compile and distribute monthly to all members comparative tables of figures show-

ing as to each defendant corporation the amounts of clinker burned, cement ground and cement shipped during the month, and the amounts of clinker in stock and cement in stock at the close of the month, a summary of that information for the elapsed period of the current year and for the corresponding period of the preceding year. Such tables have been and are being regularly compiled and distributed.

[fol. 16½] Defendant corporations agreed to furnish the manager of said association full information as to the details of each contract (including date made, date of termination, name of contractor, full description and location of work, quantity sold, the price, quantity delivered to date, balance to be shipped, etc.) made for the future delivery of Portland cement and instructed him to compile and tabulate such information as to all the members and to furnish copies of such compilations and tabulations to each. Such information has been furnished and such compilations and tabulations have been and are being made and distributed daily, and a summary of the daily reports is distributed monthly. The checkers of said association, at the request of any member, investigate the construction work designated in any contract reported to ascertain the quantity actually needed and to determine the question of priority as between two or more such contracts made by different members covering the same construction work, and the facts ascertained are reported through the manager of said association to all the members interested therein.

Defendant corporations also agreed to report to the manager of said association and instructed him to communicate to all other members all cancellations on account of contracts found to exceed the actual requirements of specific construction work already undertaken or definitely projected, or found to be duplicates of contracts held by other members covering the same construction work. This [fol. 17] has been and is being done. In consideration of the cancellations of contracts thus reported by certain members many other members made similar cancellations of their contracts, both upon their own initiative and upon the results of investigations requested by other members. This resulted in reducing to a minimum the quantities of cement under contracts for future delivery at prices specified as of the dates of the contracts and gave the manufacturers a more complete control of the situation.

Defendant corporations agreed to report to the manager of said association semi-monthly the total shipments of cement made during the preceding 15-day period and instructed him to compile and tabulate such information as to all the members and to distribute copies of such compilations to each. This has been and is being done.

Each defendant corporation having full and complete information as to each other defendant's production capacity, the quantity actually produced, the quantity sold on specific job contracts and at what prices, the quantity cancelled, and knowing that approximately one-third of the total production is sold on specific job con-

tracts, and it being understood that the differential in prices between dealers and contractors would be 10 cents per barrel except in New Jersey where 25 cents per barrel is allowed, was cognizant of every important detail of the business of each potential competitor and had his finger constantly on the pulse of supply and demand. [fol. 17½] Consequently, when the supply showed a tendency to materially exceed the demand, the course to be pursued was thoroughly understood and defendants would shut down their mills or operate them at less than full capacity, thus effecting a substantial curtailment of production and nullifying the operation of the law of supply and demand.

5. Operation of Scheme as to Dealers and the Public

Against the concerted actions of the defendants, the dealers and the public have stood and now stand defenseless.

A dealer located at, say Brockton, Mass., requesting quotations on a quantity of cement for stock, has substantially this experience: If he is a recognized dealer as defined in the Trade Practices, if the manufacturer thinks the dealer can make proper use of the quantity of cement specified, if the reports of defendant Eastern Association show that the particular dealer is not indebted to any other cement manufacturer, although the indebtedness may be the result of a refusal to pay because of a legitimate controversy rather than a lack of ability to pay, the manufacturers will quote. Upon examination of the quotations the dealer finds that all companies quote the same price regardless of the location of their mills and the distance from Brockton, that all prices are f. o. b. Brockton, that all companies require him to pay the freight and permit him to deduct the amount thereof in making payment for the cement, that [fol. 18] all companies allow him the same credit for bags returned in good condition, that all companies allow him the same discount if the bill is paid within 10 days, that all companies quote for immediate acceptance and for only one carload, which must be shipped within 15 days.

If the dealer desires to purchase a larger quantity of cement he must show that it is to be used on a specific job and must furnish the manufacturer a copy of the contract for the construction of the building, whereupon the checkers determine whether the quantity ordered is actually needed, and if not, the excess is canceled. Dealers and contractors resent the activities of the checkers, but to no avail. If by any chance more cement has been delivered to a particular job than is required, and it is proposed to use it on another job in the immediate vicinity, the contractor is required to pay the difference between the original price and the prevailing price if there has been an advance in price in the meantime. The Brockton dealer finally holds an executory contract for the quantity of Portland cement the manufacturer is willing to let him have for the specific job. The price is, say, \$3.72 per barrel f. o. b. Brockton, representing a Lehigh Valley mill base price of \$2.30, 4 bags 60 cents, and freight 82 cents.

Any manufacturer learning of this particular transaction through reports from the association or otherwise can instantly analyze the price and determine the mill base price charged by the manufacturer making the sale. If the established mill base price has not been charged, explanations are in order.

[fol. 18½] The contractors are unable to purchase directly from manufacturers except at the same prices they would be required to pay to the dealer. The general public is also obliged to pay any prices the dealers may demand and at one time within the last two years, in certain cities in the northeastern section of the United States, dealers demanded of the public as high as \$7 and \$8 per barrel. The action of the manufacturers in adhering to their policy of selling only to dealers, under the conditions stated, was tantamount to sanctioning the extortion engaged in by the dealers.

VII

Results

The outstanding result of said unlawful combination and conspiracy is the uniformity accomplished between defendant corporations in the following respects:

1. Uniform quality of product.
 2. Uniform practice of making sales f. o. b. point of delivery.
 3. Uniform freight basing points.
 4. Uniform mill base prices, notwithstanding differences in cost of production by each.
 5. Uniform freight rates, regardless of location of mills from which shipments are actually made.
 6. Uniform prices to all dealers at the same points of delivery notwithstanding differences in cost of production and freight rates.
 7. Uniform discounts allowed to dealers.
- [fol. 19] 8. Uniform prices to contractors at the same point of delivery notwithstanding differences in cost of production and freight rates.
9. Uniform charges for bags.
 10. Uniform credit allowances for bags returned.
 11. Uniform differential allowed between prices quoted dealers and prices quoted contractors.
 12. Uniform cost-accounting systems.

Another result of said unlawful combination and conspiracy is the control and regulation of production. Having knowledge of each

member's capacity to produce, the quantity actually produced, the quantity in stock, the quantity under contract, and in addition meeting frequently and discussing the probable demand for cement, it is a simple matter to produce only what it is believed the market will absorb without breaking prices, and plaintiff alleges that defendant corporations have materially restricted production.

Another result is the unconscionable prices which have been charged for Portland cement since January 1, 1919, resulting in enormous profits to defendant corporations, as evidenced by large stock dividends and cash dividends declared and paid by certain of defendant corporations from time to time; and generous increases in salaries and excessive bonuses paid to certain officials of certain of defendant corporations.

Another and perhaps the most serious result is the effect the high prices demanded for cement have had upon building operations throughout the country. Due to the high prices of cement and other [fol. 19½] building materials, building operations have been greatly retarded—thus depriving men of employment and preventing relief from the grave shortage of housing facilities.

Summarily stated, said unlawful combination and conspiracy has resulted in eliminating the competition to which the public is entitled, which the law contemplates, and which, but for said combination and conspiracy, would exist between defendant corporations in the manufacture and sale of Portland cement, and constitutes an unreasonable and unlawful restraint of interstate trade and commerce within the meaning of the Sherman Anti-Trust Act.

VIII

The Immediate Menace of Continuing the Combination and Conspiracy

Defendants are still engaged in carrying out said unlawful combination and conspiracy in restraint of interstate trade and commerce in Portland cement by the various means hereinbefore set forth and intend to continue to carry on their activities in all respects as heretofore. Unless this court shall promptly issue its preliminary injunction restraining the defendants, pending final hearing on this petition, from further carrying out said unlawful combination and conspiracy, the prevailing high prices resulting from the elimination of every semblance of competition will cause irreparable injury to the public in that such prices must be paid by the public without possibility of restitution; and especially in that unreasonably high [fol. 20] prices charged for this important building material seriously curtails building operations which are so essential to the development of the country and the prosperity, comfort, and welfare of its citizens.

IX

Prayer

Wherefore petitioner prays:

1. That writs of subpoena issue, directed to each and every of the defendants, commanding them to appear herein and answer, but not under oath (answer under oath being hereby expressly waived), the allegations contained in this petition, and to abide by and perform such orders and decrees as the court may make in the premises.

2. That upon the application of the plaintiff for a preliminary injunction, of which the defendants shall be given ten days' notice, the court order this cause to be heard thereon; and that upon such application and hearing the court issue its preliminary injunction against each of the defendants, their officers and agents, restraining them, individually and collectively, from further engaging in, carrying out, or maintaining the said combination and conspiracy, or any other of like character and effect; and particularly from further employing any or all of the above-described means by which said combination and conspiracy has been accomplished.

3. That the court, upon final hearing of this cause, adjudge and decree the Cement Manufacturers' Protective Association in and of [fol. 20½] itself, as well as each of the elements composing it, whether corporate or individual, whether considered collectively or separately, to be an unlawful instrumentality, organized, operated, and maintained solely for the purpose of carrying into effect the unlawful combination and conspiracy in restraint of interstate trade and commerce in Portland cement hereinbefore described, in violation of section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies" (26 Stat. 209).

4. That the court, upon final hearing of this cause, adjudge and decree that the defendants have engaged in a combination and conspiracy in restraint of interstate trade and commerce in Portland cement in the manner and by the means hereinbefore described, in violation of the Act of Congress of July 2, 1890 entitled "An Act to protect trade and commerce against unlawful restraints and monopolies" (26 Stat., 209), and that they and their officers, directors, and agents be perpetually enjoined, individually and collectively, from further engaging in, carrying out, or maintaining the said combination and conspiracy, or any other of like character and effect, and particularly from further employing any or all of the above-described means of carrying out said combination and conspiracy.

[fol. 21] 5. That plaintiff have such other, further, and general relief as the nature of the case may require and the court may deem proper.

United States of America, by William Hayward, United States Attorney for the Southern District of New York. H. M. Daugherty, Attorney General. Guy D. Goff, Assistant to the Attorney General. William Hayward, United States Attorney for the Southern District of New York. James A. Fowler, Oliver E. Pagan, Ben A. Matthews, Roger Shale, Special Assistants to the Attorney General.

[fols. 21½-26] Jurat showing the foregoing was duly sworn to by S. Wallace Kemp omitted in printing.

[Title omitted]

ANSWER—Filed Oct. 3, 1924.

Cement Manufacturers Protective Association and the officers and members thereof above named as defendants herein, jointly [fol. 27½] and severally answering the allegations of the Petition, say:

Each of the nineteen defendant corporations is (in itself, in its ownership and control, and in the interests it represents) entirely separate and distinct from all the others. These nineteen distinct organizations are competitively engaged in manufacturing and selling Portland cement, an industry often and correctly described as "the most individualistic of the larger branches of manufacture."

Summary of Defendants' Position with Respect to the General Charges of the Petition

The picture of the Portland cement industry in the United States, and particularly the northeastern portion thereof, presented by the Petition as an industry long subjected to restraining influences in the nature of agreements, combinations and conspiracies resulting in artificial uniformities, control of production, unconscionable prices and enormous profits, is not a true representation of said industry but directly contrary to the facts and accordingly denied.

The facts are that the industry, and particularly the portion thereof here involved, has exhibited and exhibits an illustration of long-recognized economic forces operating freely and without restraint, the illustration being exceptionally clearcut by reason of the exceptional commercial identity of the product of all manufacturers, the exceptional number of large competing manufacturers, the exceptional surplus production capacity over consumption and [fol. 28] the exceptional sales competition, as hereinafter more fully explained.

Many of the matters and things alleged in the Petition as "re-

sults" of the operation of a "scheme" or "combination and conspiracy" in fact have not existed and do not exist. For instance, there have been neither "unconscionable" or unreasonable prices, nor "enormous" or immoderate profits, nor control or restriction of production, nor material effect upon building operations.

None of the alleged "results" is in fact a result, consequence or effect of any scheme, combination or conspiracy. Such facts, characterized in the Petition as "results," as do exist to any extent, divide themselves into two groups:

(i) Some of them (as, for instance, freight rates, the standardization of the commodity, retail prices, etc.) have been controlled by, and resulted from, the acts of others, (particularly the Interstate Commerce Commission in the matter of freight rates; the Government, various scientific bodies, engineers, architects and other buyers and users in the matter of standardization; and dealers in the matter of resale prices) over whom neither any of the defendants nor the defendants collectively have exercised, or can exercise, control.

(ii) The others (and particularly such of the alleged uniformities as may at times be observed in the industry, as hereinafter fully explained) are developments inherently incident to the intensely competitive conditions prevailing throughout the history of the portion of the industry here involved and other economic factors, which [fol. 28½] had their inception and existed prior to any concerted action whatsoever in the industry, and have gradually grown and become better defined, without plan or restraint of any kind, as the competition has become increasingly operative and the conduct of industry generally has become less haphazard and wasteful, and more intelligent, scientific and efficient.

There is not among the defendants, and has not been, any association organized, as alleged in the Petition, along the lines known as the "Eddy Plan", "Open Price Plan", etc. Most of the defendant corporations are, it is true, members of certain associations hereinafter (pp. 37-50; 71-139) fully described—for the purpose of (1) promoting the use of cement and (2) the collection of certain information which enables each manufacturer to know (i) the extent of its own obligations for the future delivery of cement, (ii) something of the financial position of some of those seeking credit, (iii) the official freight rates, and (iv) the existing supply of cement, such information as every manufacturer needs and legitimately attempts to secure—but these associations merely render these helpful services which could not otherwise be secured; exert no restraint whatsoever upon any part of the complete freedom of action of each manufacturer; and are, the defendants assert, not only lawful, but in fact highly beneficial both to the industry and to the public.

All the allegations and suggestions of the Petition which personify the economic factors which have in fact produced existing conditions, into a superior control named in the Petition "a gigantic scheme of concerted action" or "combination and conspiracy", are

[fol. 29] denied. The portion of the industry here involved in fact has presented, and presents, a struggle for business between an unusual number of well-equipped competitors, the incidents and results of which are inconsistent with the allegations of unified anthropomorphic control and in accordance with the unrestrained workings of economic laws as hereinafter explained.

[fol. 29½] The Allegations Concerning Control and Regulation of Production.

All allegations with respect to collective "control and regulation of production," are denied. The actual shipments of each manufacturer have been and are inconsistent with any unified control or any condition except that of vigorous competition, wherein each is struggling to take business from the others.

In the accompanying chart (Exhibit I), the shipments of each manufacturer each year from 1915 to 1921, are accurately shown by a black line extending up into the scale of millions of barrels, the distance equivalent to the actual shipments, the lines for each of the six years being placed side by side over the name of the manufacturer whose shipments each line represents.

Thus, taking the three alphabetically first, in 1915 Allentown shipped nearly a million barrels, Alpha nearly five and a quarter millions, and Atlas, from the mills mentioned in the Petition or shipped into the territory, about five and three-fourths millions. In the next year, 1916, Allentown shipments decreased about a hundred thousand barrels, Alpha's shipments decreased more than half a million, while Atlas increased nearly a million. In the next year, 1917, Allentown and Alpha shipments fell off further, while Atlas shipments were about the same. In the same three years, the shipments of Edison, Giant, Knickerbocker and Security increased continuously, Bath, Coplay, Dexter, Glens Falls, Lawrence, Lehigh and Phoenix decreased continuously, while Nazareth, Penn Allen, Pennsylvania and Vulcanite moved variously both up and down.

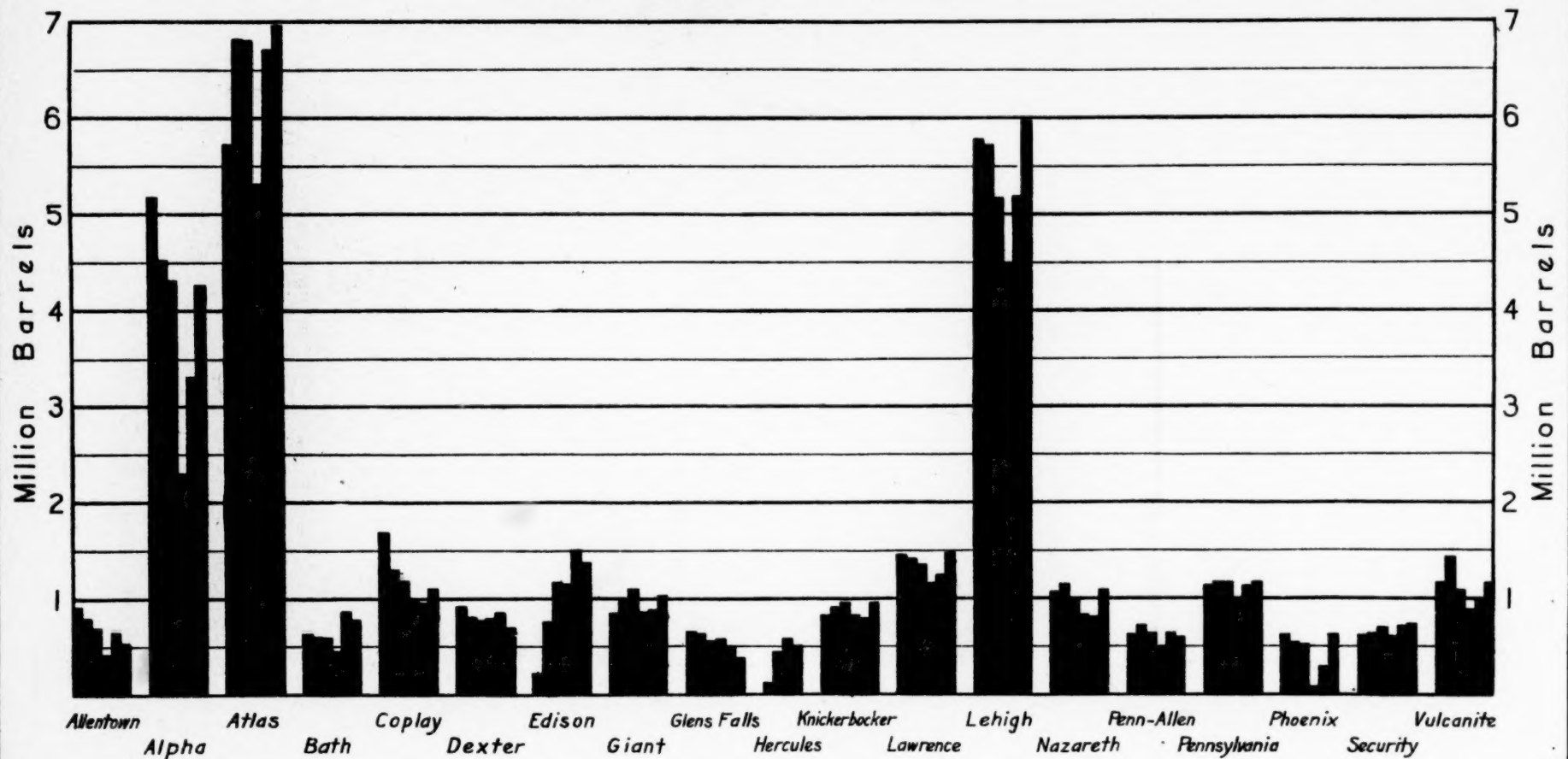
(Here follows Exhibit I to Answer, marked side folio page 30.)

Similar unsymmetrical developments occurred in the remaining [fol. 31] three years (1918 reflecting Government war restriction), and at the end of the six years the position of no defendant is relatively to all the rest what it was at the beginning. Six of the companies shipped less in 1920 than in 1915, eight shipped more, five shipped about the same amount.

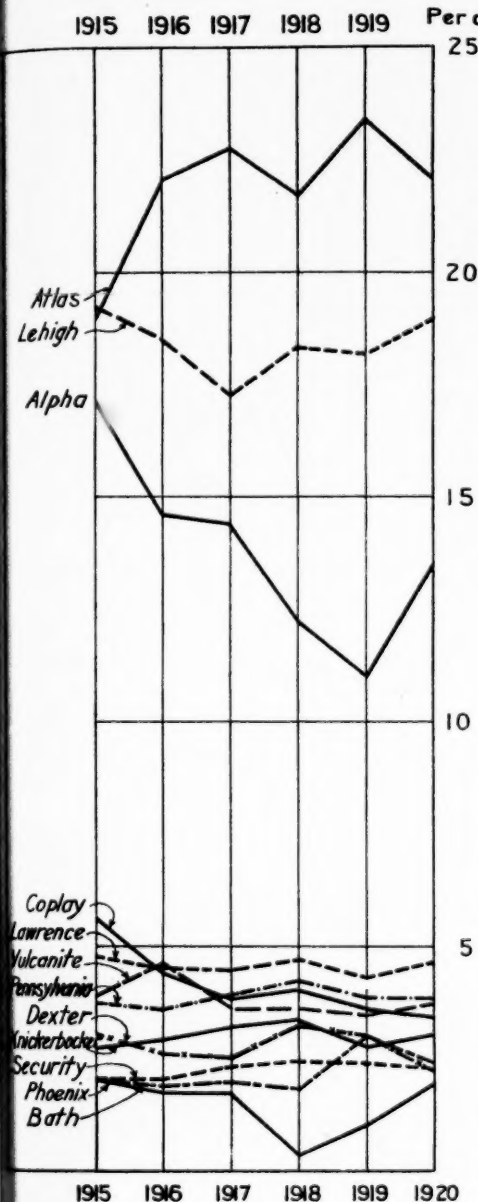
The facts thus refute the allegations of the Petition that this portion of the Portland cement industry operates pursuant to any "scheme" or "combination and conspiracy." The following table shows what percentage of the total business of all these manufacturers each of them secured each year, from which it will be observed that there has been nothing remotely resembling anything like collective control or distribution of the business among the nineteen separate competitors.

COMPARATIVE YEARLY SHIPMENTS OF DEFENDANT COMPANIES

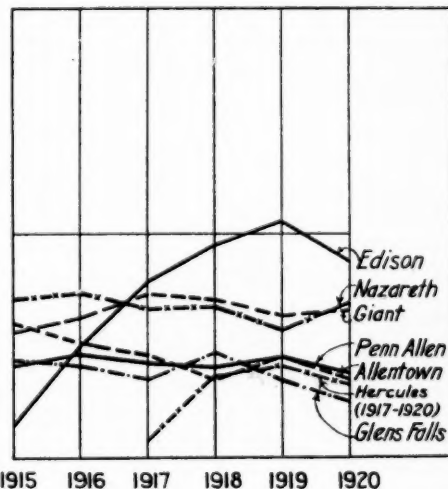
FROM THE MILLS MENTIONED IN THE PETITION



Yearly Shipments of each Company are shown, left to right, from 1915 to 1920, inclusive, except Hercules, 1917 to 1920, inclusive.



ANNUAL SHIPMENTS
OF
DEFENDANT COMPANIES
SHOWN IN
PERCENTAGES
OF
TOTAL SHIPMENTS
OF
ALL DEFENDANT COMPANIES
FROM
THE MILLS MENTIONED IN THE PETITION



Company	1915	1916	1917	1918	1919	1920
Allentown	3.00	2.57	2.33	1.74	2.28	1.72
Alpha	17.19	14.64	14.42	12.25	11.04	13.54
Atlas	19.00	22.06	22.78	21.72	23.44	22.10
Bath	2.08	1.90	1.98	1.84	3.02	2.45
Coplay	5.62	4.40	3.87	4.07	3.64	3.48
Dexter	3.06	2.61	2.53	3.25	3.01	2.20
Edison	0.75*	2.48*	3.94	4.77	5.28	4.39
Giant	2.84	3.15	3.68	3.53	3.16	3.27
Giens Falls.....	2.20	2.06	1.88	2.39	1.75	1.23*
Hercules .....	.....	.....	0.39*	1.84	2.05	1.65
Knickerbocker..	2.77	2.95	3.22	8.40	2.80	3.07
Lawrence	4.82	4.55	4.50	4.73	4.33	4.68
Lehigh	19.26	18.52	17.28	18.35	18.20	18.99
Nazareth	3.55	3.70	3.35	3.39	2.85	3.46
Penn Allen	2.09	2.33	2.14	2.03*	2.27	1.89
Pennsylvania ..	3.75	3.62	3.97	4.24	3.88	3.86
Phoenix	2.07	1.76	1.76	0.35*	1.02	1.99
Security	2.04	2.05	2.34	2.46	2.48	2.31
Vulcanite	3.91	4.65	3.64	3.65	3.50	3.72

[fol. 31½] For easy comparison the portion of the total business of all, which each secured each year, is graphically shown in the accompany chart, Exhibit II.

The earnings of the nineteen separate manufacturers have been equally or more diverse, ranging, for instance, in the year 1920 (wherein shipments of cement in the United States were the largest in the history of the industry), from a loss of more than \$700,000 on an "invested capital," as reported to the Government, of less than \$4,000,000 to earnings of about 21 per cent on the "invested capital." Between these extremes, the results were diverse. One of these manufacturers lost upwards of \$20,000 on an "invested capital" of \$1,435,790 and a business of more than 500,000 barrels; another made less than \$5,000 on an "invested capital" of more than \$3,000,000 and a business of more than 1,000,000 barrels; another made less than \$12,000 on an "invested capital" of more than \$800,000 and a business of more than 500,000 barrels. The detailed figures are given at page 18, *infra*.

There is no conceivable way of reconciling the facts with any agreement, collective control or regulation.

(Here follows Exhibit II to Answer, marked side folio page 32.)

*Operating only part of year or not at all.

[fol. 33] The Allegations Concerning "Unconscionable" Prices

All allegations with respect to "unconscionable" or unreasonable prices, are denied. The prices received by these manufacturers for Portland cement are, and for more than twenty-five years have been, remarkably low when measured by the operations involved in the manufacture and costs.

The manufacture of Portland cement embraces quarrying and transporting the rock and other materials; reducing them to an impalpable powder by expensive operations; analyzing them and mixing them in accurate proportions; analyzing the mixture; subjecting it for a long period to gradually increasing and nicely adjusted heat, approaching finally 3,000° F., during which carbon dioxide and other substances are first removed in comparatively low and long-continued heat and the purified materials brought by high heat to a state of incipient fusion, in extremely hard balls known as clinker, so hard and abrasive that they will scratch glass; cooling; mixing with proper proportions of gypsum; grinding the extremely hard clinker to a powder so fine that 78 per cent. thereof will pass through a sieve having 40,000 holes to the square inch; analyzing; packaging and shipping. The manufacture involves delicate treatment of large masses of material, the application of a high degree of watchful skill and accuracy since the product is easily ruined by improper mixture or content, or underburning or overburning by too short or too long exposure or too low or too high heat, and the penalty of any inaccuracy extends to great quantities of the product). large investment, much fuel and labor, and an unusual amount of [fol. 33½] repair and replacement of apparatus. Notwithstanding these elements in the manufacture, the product is sold by the manufacturer at a price which is, as these defendants are informed, lower than that of any other manufactured commodity.

The cheapness of Portland cement is attested by "the marvelous growth of the Portland cement industry in the United States" recited in the Petition. Portland cement has made its way in competition with natural cement, lumber, brick and stone. As accurately summarized in War Industries Board Bulletin No. 41 (Government Printing Office 1919), pp. 4, 5:

"A lowering of the price of Portland cement from \$3 a barrel in 1880 to 80 cents in 1912, * * * while the prices of its chief competitors, lumber, brick and stone, advanced from 20 to 75 per cent., is one of the reasons why Portland cement has gained new uses at the expense of its rivals. * * * The decline in cement prices from 1913 to 1914 and 1915 was the result of sharp competition between cement mills with productive capacity over fifty per cent. in excess of the output. The subsequent rise in the price of cement from 1916 to 1918 was due to rapidly increasing wages and fuel costs. On the whole, however, cement prices did not rise as rapidly as the prices of other building materials."

The average price per barrel of Portland cement in the United States, and in the Lehigh District (where most of the mills of defendants are located) as shown by the bulletins of the United States Geological Survey, has been as follows:

	United States	Lehigh district
[fol. 34] 1870-1880	\$3.00	....
1881	2.50	....
1882	2.01	....
1883	2.15	....
1884	2.10	....
1885-1888	1.95	....
1889	1.67	....
1890	2.09	....
1891	2.13	....
1892	2.11	....
1893	1.91	....
1894	1.73	....
1895	1.60	....
1896	1.57	....
1897	1.61	....
1898	1.62	....
1899	1.43	....
1900	1.09	....
1901 .....	.99	....
1902	1.21	....
1903	1.24	....
1904 .....	.88	....
1905 .....	.96	....
1906	1.13	....
1907	1.11	....
1908 .....	.85	.75
1909 .....	.81	.70
1910 .....	.89	.73
1911 .....	.84	.71
1912 .....	.81	.67
1913	1.00	.84
1914 .....	.92	.81
1915 .....	.86	.70
1916	1.10	.94
1917	1.35	1.22
[fol. 34½] 1918	1.59	1.51
1919	1.71	1.64
1920	2.01	1.91

In the price studies of the War Industries Board, the Department of Labor and the Department of Commerce, the year 1913 is taken as "a pre-war standard for measuring price changes" and as affording the index number; and examination of cement prices may begin at that year:

The condition of the cement industry just prior to that year is accurately set forth in a statement quoted with approval by the Geological Survey, in "The Cement Industry in 1911"—the ninth year of the "combination and conspiracy," according to the Petition—as follows:

"The situation presents a peculiar paradox. Here is a great industry showing constant development and increase in production, but the situation from the standpoint of the manufacturer is far from encouraging, owing to extremely low prices. There are no dividends in sight, and some of the mills are in the sheriff's hands. * * *

"Considering this side of the industry the cement manufacturer has been a veritable anomaly in modern commercial and industrial development. His industry enjoys the unique distinction of being the only one of its magnitude that has been practically free from overcapitalization. The price of his product is so low that one could not scrape the free sand from the gutters at much less cost per barrel than the present price of cement" (pp. 12-13).

(Here follows Exhibit III to Answer, marked side folio page 35.)

In the next year, 1912, prices declined further and conditions were thus described:

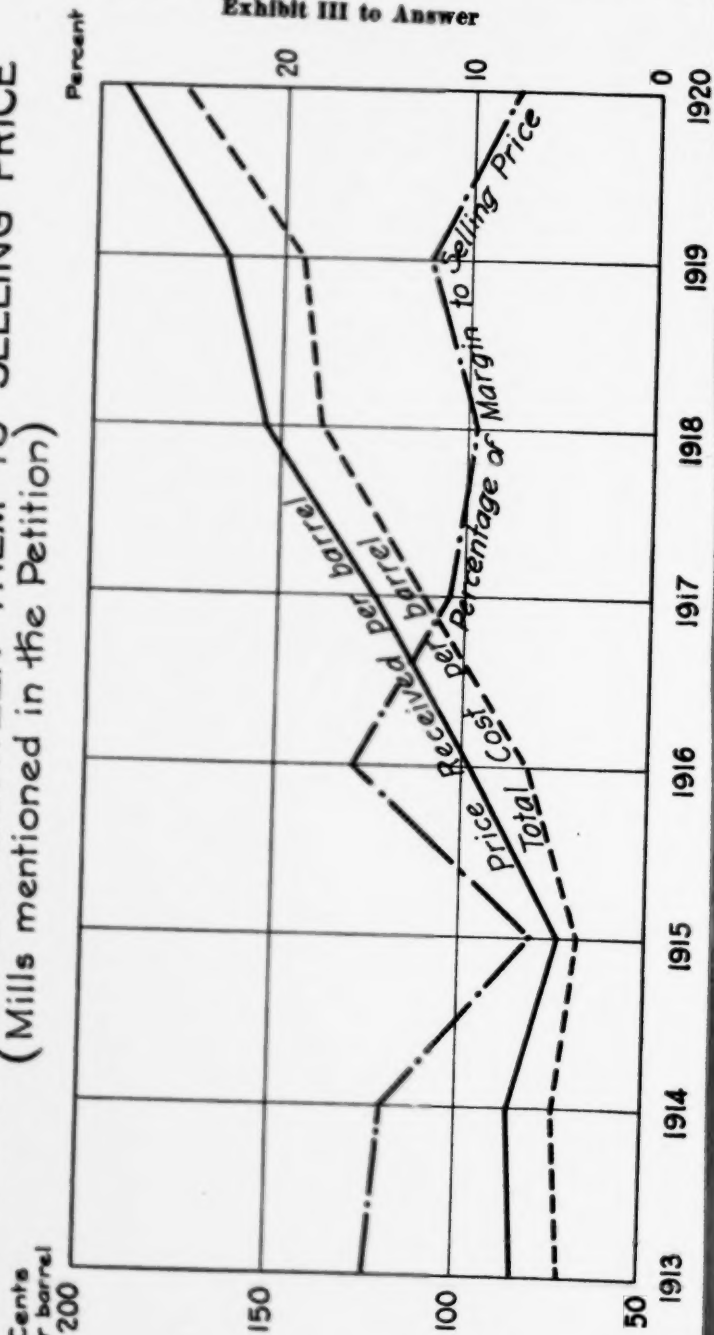
"For the majority of plants in the United States the first three [fol. 36] to six months of 1912 was a very quiet period. Fully forty-five of the active plants were idle during three months or more, the majority having shut down on account of full stock houses and lack of demand for cement. * * * Taken altogether the year 1912 was one of large production and still larger shipments and of low prices" (Cement in 1912, pp. 14, 16).

Beginning with the common "pre-war standard" year, the following table gives the average cost per barrel and the average price received per barrel by the defendant manufacturers operating each year from 1913 to 1920, inclusive, together with the percentage which the margin between cost and price bears to the selling price—or what would be the percentage of profit on the selling price but for the fact that other items reducing profit are not included in cost:—

Year	Cost per barrel	Price received per barrel	Per cent margin to price
1913	\$.7151	\$.8403	14.9
1914 .....	.7398	.9616	14.1
1915 .....	.6796	.7257	6.3
1916 .....	.8158	.9690	15.9
1917	1.1069	1.2410	10.8
1918	1.3923	1.5426	9.7
1919	1.4496	1.6529	12.3
1920	1.7798	1.9290	7.7

VERAGE COST PER BARREL AND PRICE RECEIVED PER BARREL AND PERCENTAGE OF MARGIN BETWEEN THEM TO SELLING PRICE (Mills mentioned in the Petition)

Exhibit III to Answer



These same figures are shown graphically in the accompanying chart, Exhibit III, the percentage of the selling price represented by the margin between cost and price being in red.

An understanding of these figures involves noting the following: [fol. 36½] (1) The price per barrel received by any manufacturer of cement at any particular time always represents a number of prices which differ from each other according to when and where each lot of the cement for which the prices are received, has been sold (*infra*, p. 155). The price per barrel on any particular day, or during any year, may embrace prices received from the delivery of some lots of cement sold on contracts two or three years before at the then market prices, prices received from other lots sold at more recent market prices, prices received from lots sold at points near the mill to which the manufacturer has a freight advantage, as well as from lots sold at points distant from the mill on which the freight disadvantage must be absorbed by the manufacturer.

Accordingly, ~~an advance or decline in market prices~~ at a particular time or during a particular period affects the price received at that time or during that period more or less, according to the amount of cement then being delivered under old contracts made at other prices, the places of delivery and other variable factors.

For instance, for two or three months prior to May, 1915, the cement of the defendant corporations then operating sold at prices about 10 cents a barrel below cost, as a result of one of the occasional trade wars between them, and the average price per barrel for the year was nearly 14 cents below that of the year before. From March, 1918, throughout that year, market prices were about 40 cents a barrel higher than during the period from March, 1917, to the end of 1917, and 55 cents higher than prices in the first three months of 1917, but existing contracts at previous prices, and like factors, prevented the average price received advancing correspondingly. In 1919, market prices were 15 cents a barrel below the prices of 1918, but the price received nevertheless actually advanced above the price received in 1918, chiefly because war conditions had operated so that sales represented to an exceptional degree fresh business at then market prices.

(2) The percentage of the selling price represented by the margin between cost and price must be considered in connection with the fact that, as stated by the Geological Survey:

"The rate of turnover of capital is necessarily much faster in the iron industry than in the cement industry, in which the rate of turnover is practically slower than that of any other industry. In other words, if the profits per ton were 10 per cent of the selling price of both pig iron and cement, the returns to the producer in the case of the iron industry would be 15 to 20 per cent a year profit, while in the cement industry the same capital would produce only 5 per cent profit" ("Cement in 1910," p. 11).

The rate of turnover in the cement industry is generally more than two years. Allowing for the variable factors and for the fact

that the margin between cost per barrel and price received per barrel does not accurately show profit because other items diminishing profits are not included in cost, and adding the fact that shipments in 1919 were several million barrels below those in 1920, the percentages of this table correspond with the profits of about 7 per cent in 1919 and about 5 per cent in 1920, shown in the financial tables, *infra*, p. 18.

[fol. 37½] The Allegations Concerning "Enormous" Profits

All the allegations of "enormous" or immoderate profits, are denied. The profits of these manufacturers have long been, and are, meager and less than those commonly resulting from investment in industrial enterprises.

To understand the figures, it is necessary to note the fact that under the prevailing competitive conditions, the profits of a few cement mills are exceptions to the general rule. A few of the smaller mills are so isolated by freight rates from other mills that the cost of delivering cement therefrom to purchasers is well separated from the competitive market prices. For example, an isolated mill serving a territory which can be reached from any other mill only at a freight disadvantage of, say, 50¢ or more a barrel, and being also able to make deliveries more promptly, accurately and satisfactorily than mills shipping from a great distance, other things being equal, can earn much larger profits than any mill not having such freight advantages over competitors.

Similarly, manufacturing costs at different mills vary considerably. For instance, an exceptional mill operating a quarry wherein the rock being quarried at a particular time contains precisely the correct proportions of the different elements so that no artificial mixing is necessary, can operate at lower cost than a mill which has to bring in large quantities of proper limestone or other materials from considerable distances to mix with the rock of its quarry to obtain proper proportions. On account of a multiplicity of such factors, the manufacturing cost of one mill may be 25¢ or more per barrel different from that of others.

[fol. 38] Among these defendant corporations, the exceptional mills having extreme advantages in freight or manufacturing costs are of comparatively small capacities, which could not supply more than a small fraction of the demand or materially affect market prices.

Since the allegations of the Petition concerning profits relate to the two years since the relinquishment of Government war control, the figures of those years are here given. In the case of each of the two manufacturers (Atlas and Lehigh) operating mills mentioned in the Petition and also other mills in other parts of the country, cement from which is excluded from the territory here involved by freight rates, the figures herein are reached by taking a proper proportion of the general figures of the manufacturer. The matters of showing the investment upon which each manufacturer is entitled to a fair return and the earnings, are dealt with thus: In one

table, only "invested capital" as reported to the Government and "net income" as so reported, with taxes deducted, are shown. In another table "invested capital" plus funded indebtedness and "net income" together with interest less taxes are shown. In the third table the capital figure represents capital stock plus surplus or minus deficit plus funded indebtedness, and the figures of earnings are "net income" together with interest minus taxes. The figures of the three methods of computing profits, of the manufacturers individually and collectively, are as follows:—

[fol. 38½]

TABLE I

	Invested capital		Net income minus taxes		Per cent profit	
	1919	1920	1919	1920	1919	1920
Allentown	\$843,375.00	\$843,375.00	\$51,023.13	\$11,279.37	6.0	1.3
Alpha	13,682,000.68	14,952,777.90	844,249.91	1,139,317.55	6.1	7.6
Atlas	15,140,632.35	13,269,595.66	1,292,178.28	913,636.52	8.5	6.9
Bath	979,372.88	996,185.82	101,303.64	103,673.38	10.3	10.4
Coplay	3,307,090.77	3,254,490.73	(a) 6,337.87	4,239.96	0.0	1.3
Dexter	1,182,480.92	1,200,828.15	249,307.96	135,753.65	21.0	11.3
Edison	(b) 3,780,578.40	3,780,578.40	(a) 577,411.04	(a) 740,955.50	0.0	0.0
Giant	2,629,140.40	2,814,884.42	279,905.58	147,333.30	10.3	5.2
Glens Falls	1,153,040.81	1,200,466.13	184,725.76	46,740.19	16.0	3.8
Hercules	1,458,643.49	1,435,790.01	53,122.06	(a) 23,173.25	3.6	0.0
Knickerbocker ..	3,477,298.92	3,522,561.27	162,832.23	165,256.07	4.7	4.7
Lawrence	2,302,072.79	2,785,048.48	277,492.70	178,693.11	12.0	6.4
Lehigh	12,908,419.93	13,618,140.61	1,098,569.71	546,610.19	7.8	4.0
Nazareth	2,796,374.49	3,080,490.73	321,794.76	470,815.49	11.5	15.2
Penn-Allen	604,800.93	637,300.34	60,469.80	38,885.50	9.9	6.1
Pennsylvania ...	1,222,582.33	1,358,289.34	209,222.45	207,336.20	17.1	15.2
Phoenix	543,034.91	469,853.46	(a) 5,778.15	99,193.18	0.0	21.1
Security	1,709,675.20	1,756,145.40	252,910.39	163,362.53	14.8	9.3
Vulcanite	2,611,536.77	2,904,281.84	202,728.20	66,589.24	7.7	2.2
	\$72,332,151.97	\$73,881,083.69	\$5,382,414.26	\$3,674,586.68	7.4	5.0

(a) Deficit.

(b) As "Invested Capital" was not reported to Government in 1919, 1920 figures are shown.

TABLE II

	Invested capital plus funded indebtedness		Net income plus interest and minus taxes		Per cent profit	
	1919	1920	1919	1920	1919	1920
Allentown	\$1,233,375.00	\$1,230,875.00	\$89,799.80	\$48,525.62	7.3	3.9
Alpha	13,682,000.68	14,952,777.90	844,249.91	1,139,317.55	6.2	7.6
Atlas	20,050,390.90	17,244,344.96	1,570,646.86	1,140,179.32	7.8	6.6
Bath	1,264,372.88	1,281,185.82	118,403.64	120,773.38	9.4	9.9
Coplay	3,807,090.77	3,754,490.73	68,815.49	38,796.73	1.8	1.0
Dexter	1,182,480.92	1,200,828.15	249,307.96	135,753.65	21.0	11.2
Edison	5,280,578.40	7,280,578.40	(b) 188,648.30	(b) 614,344.44	0.0	0.0
Giant	3,179,140.40	3,314,884.42	294,817.09	165,530.19	9.3	5.0
Glens Falls	1,451,040.81	1,495,466.13	202,605.76	64,591.97	14.0	4.3
Hercules	2,210,487.49	2,329,470.01	100,543.81	33,401.12	4.8	1.4
Knickerbocker ..	3,477,298.92	3,522,561.27	170,362.08	169,514.67	4.9	4.8
Lawrence	2,302,072.79	2,785,048.48	303,776.55	193,453.45	13.1	6.9
Lehigh	13,039,419.93	13,722,140.61	1,154,569.71	553,510.19	8.9	4.0
Nazareth	3,560,374.49	3,585,490.73	367,069.76	512,304.60	10.3	14.3
Penn-Allen	892,100.93	862,900.34	83,556.26	58,171.26	9.4	6.7
Pennsylvania ...	1,472,582.33	1,608,289.34	221,722.45	219,836.20	15.0	13.6
Phoenix	824,534.91	751,353.46	15,110.19	123,715.84	1.8	16.4
Security	2,979,675.20	2,971,145.40	322,088.11	227,204.70	10.8	7.6
Vulcanite	2,611,536.77	2,904,281.84	217,310.69	83,111.96	8.3	2.9
	\$83,500,554.52	\$86,798,112.99	\$6,206,107.82	\$4,413,347.96	6.6	5.1

(a) As "Invested Capital" was not reported to Government in 1919, 1920 figures are shown.
 (b) Deficit.

[fol. 39]

TABLE III

	Capital stock, plus surplus or minus deficit, plus funded indebtedness		Net income plus interest and minus taxes		Per cent profit	
	1919	1920	1919	1920	1919	1920
Allentown	\$1,707,242.61	\$1,710,590.37	\$89,799.80	\$48,525.62	5.26	2.8
Alpha	12,299,595.12	12,955,534.57	844,249.91	1,139,317.55	6.9	8.8
Atlas	18,457,712.08	17,177,347.50	1,570,646.86	1,140,179.32	8.5	6.6
Bath	1,227,924.95	1,306,386.43	118,403.64	120,773.38	9.6	9.2
Coplay	3,807,090.77	3,754,990.73	68,815.49	38,796.73	1.8	1.03
Dexter	1,185,230.92	1,201,188.15	249,307.96	135,753.65	21.0	11.3
Edison	11,022,258.88	2,318,221.30	(a) 188,648.30	614,314.44	0.0	0.0
Giant	3,828,431.41	3,924,444.86	294,817.09	165,530.19	7.7	4.2
Glens Falls	1,564,248.06	1,495,087.99	202,605.76	64,591.97	12.9	4.3
Hercules	2,210,487.49	2,329,470.01	100,543.81	33,401.12	4.5	1.4
Knickerbocker ..	3,502,562.43	3,567,910.40	170,362.08	169,514.67	4.9	4.8
Lawrence	2,431,090.61	2,937,907.14	303,776.55	193,453.45	12.5	6.6
Lehigh	13,207,000.00	14,203,000.00	1,154,569.71	553,510.19	8.7	3.9
Nazareth	1,844,000.00	1,585,000.00	367,069.76	512,304.60	20.0	32.3
Penn-Allen	914,989.62	876,887.05	83,556.26	58,171.26	9.1	6.6
Pennsylvania ..	1,607,889.34	1,653,904.06	221,722.45	219,836.20	13.8	13.3
Phenix	799,625.22	903,818.40	15,110.19	123,715.84	1.9	13.7
Security	2,987,820.03	3,023,211.75	322,088.11	227,204.70	10.8	7.5
Vulcanite	2,688,973.51	2,671,758.65	217,310.69	83,111.96	8.1	3.1
Total	\$87,294,173.05	\$79,596,659.36	\$6,206,107.82	\$4,413,347.96	7.1	5.5
(a) Deficit.						

[fol. 39½] The extent to which profits have been kept down by the competition and the meager returns which these profits represent, is made plain by the reference to profits on capital invested in industrial operations generally. Taking all industrial companies listed on the New York Stock Exchange (about two hundred and fifty in number) as reflecting the earnings on industrial investment, during these years a dollar invested in an industrial enterprise should have shown a much larger return. Compiling a table on the same basis as Table III, the figures of these representative companies are:—

	Capital Stock Plus Surplus and Funded Indebtedness	Net Income Minus Taxes	Per Cent Profit
1917.....	\$8,151,397,750	\$1,066,996,078	13.08%
1918.....	8,727,839,902	881,377,755	10.09%
1919.....	9,525,470,667	889,541,307	9.33%
1920.....	10,476,546,779	887,155,690	8.4 %

The cement industry during 1919 and 1920 represented an exception to most industrial conditions, the sales in 1920 being the largest in the history of the industry, while in most industries the period was one of extreme depression. With that in mind, the comparison indicates the remarkably meager profits of the cement industry in this portion of the United States.

As to the allegation concerning dividends, the facts are:—In 1919, four of the manufacturers paid no dividend whatever, five paid dividends ranging from 3½ to 7 per cent. on their preferred stock and no dividends on their common stock, one paid its preferred stock dividend and 2½ per cent. on its common stock, the remaining nine paid dividends on all outstanding stock. In 1920, four paid no dividend at all, five paid dividends on their preferred stock and not on their common stock, the rest paid dividends on all their stock.

As to the allegations concerning stock dividends, four manufacturers out of the nineteen have declared stock dividends during the years in question. One declared a stock dividend to common stockholders who had received no dividend whatever for ten years, to capitalize profits put back in plant in the years when no dividend was paid on the common stock. Another whose nominal capital was less than two-fifths of its "invested capital" as officially determined, declared a stock dividend to capitalize profits put back in plant from 1906 to 1914. The other two stock dividends were similarly to capitalize prior profits put back in plant and adjust capitalization to "invested capital".

As to the allegations concerning salaries and bonuses, those operating these properties are not in general those who own them. No profits have been diverted to salaries or bonuses. Salaries have increased with the increase in cost of living and the general increase in the cost of all labor, and not otherwise. Bonuses have been

in lieu of salary or pay-roll increase and generally with a view to discontinuance upon return to normal conditions.

[fol. 40½]

I

The Parties

The allegations of the Petition naming the parties are substantially correct, and admitted except as to certain errors which are corrected in the following statement:

(a) The Allentown Portland Cement Company, a New Jersey Corporation, was dissolved June 27, 1919, as appears by the records in the office of the Secretary of State of New Jersey of that date. The cement mill formerly owned by it is now owned and operated by Allentown Portland Cement Company, a Pennsylvania corporation, which is a member of said Association but not a party hereto.

(b) The Lawrence Cement Company, incorporated under the laws of the State of New York, is not, and never has been a member of Cement Manufacturers Protective Association; said Lawrence Cement Company is sales agent for the Lawrence Portland Cement Company, a Pennsylvania corporation with its mill at Siegfried, Pennsylvania, which is a member of said Association but not a party hereto.

(c) The Glens Falls Portland Cement Company and Security Cement & Lime Company are members of Cement Manufacturers Protective Association with respect to transmitting and receiving credit information, statistics of production, commitment, shipment and stocks on hand and freight books, but not with respect to any of the activities of said Association relating to reporting contracts—all hereinafter referred to and explained.

A number of the mills mentioned in the Petition have been transferred to different legal ownership at different times, as a result [fol. 41] of reorganization or otherwise, as illustrated by the case of the Allentown mill, *supra*. In so far as this Answer presents statistics, for purposes of comparison, these changes of legal ownership are ignored.

II

Jurisdiction

The allegations of the first three paragraphs of Subdivision II of the Petition in support of the jurisdiction are admitted.

The defendants deny that they or any of them have been or are unlawfully restraining interstate trade or commerce in Portland cement, in violation of the provisions of any Act of Congress or at all, and deny that they or any of them have engaged in any combination or conspiracy, by means of which any unlawful restraint

of trade or commerce in Portland cement has been or is being accomplished.

[fol. 41½]

III

The Commodity

For the purposes of this suit the allegations of subdivision III of the Petition, concerning the commodity, are in general admitted, but qualified and supplemented as follows:

Cement of the Portland type consists of definite chemical compounds which, when mixed with water combine therewith, forming crystalline substances of great mechanical strength and capable of adhering firmly to clean inert material, as contrasted with other cements used as construction material, which are mechanical mixtures (usually of lime and active silica) ready to unite in the presence of water and form a compound (as silicate of lime) which is hydraulic but of less strength and reliability than Portland cement.

Experiments in the manufacture of cements of the Portland type were carried on in several parts of the United States at about the time mentioned in the Petition, nearly fifty years ago. But commercially, the industry began in the so-called Lehigh District (on a narrow strip of land, extending across the Delaware and Lehigh Rivers, where nature had jammed together the slate and limestone found on either side of the strip into a mixture of approximately properly proportioned materials, sometimes called "cement rock"), and with the increase in chemical and geological knowledge other districts and plants have been from time to time added until the Portland cement is now manufactured in many different places throughout the United States.

The production of Portland cement in the whole United States, including the Lehigh District, and in the Lehigh District are set forth in the following table:

[fol. 42] Portland Cement. Production in the Whole United States and Lehigh District, and Percentage of Lehigh Valley to Total Output in U. S. 1870-1920. Compiled from Figures of U. S. Geological Survey

Year	Lehigh Valley	United States	% L. V. to U. S.
1870-1879		82,000 (estimated)	
1880	(Separate figures	42,000	
1881	not avail-	60,000	
1882	able until	85,000	
1883	1890.)	90,000	
1884		100,000	
1885		150,000	
1886		150,000	
1887		250,000	
1888		250,000	
1889		300,000	
1890	201,000	335,500	60.0
1891	248,500	454,813	54.7
1892	280,840	547,440	51.3
1893	265,317	590,652	44.9
1894	485,329	798,757	60.8
1895	634,276	990,324	64.0
1896	1,048,154	1,543,023	68.1
1897	2,002,059	2,677,775	74.8
1898	2,674,304	3,692,284	72.4
1899	4,110,132	5,652,266	72.7
1900	6,153,629	8,482,020	72.6
1901	8,595,340	12,711,225	67.7
1902	10,829,922	17,230,644	62.8
1903	12,324,922	22,342,973	55.2
1904	14,211,039	26,505,881	53.7
1905	17,368,687	35,246,812	49.3
1906	22,784,613	46,463,424	49.0
1907	24,417,686	48,785,390	50.0
[fol. 42½]			
1908	20,200,387	51,072,612	39.6
1909	24,246,706	64,991,431	37.3
1910	26,315,359	76,549,951	34.4
1911	25,972,108	78,528,637	33.1
1912	24,762,083	82,438,096	30.0
1913	27,139,601	92,097,131	29.5
1914	24,614,933	88,230,170	27.9
1915	24,876,442	85,914,907	29.0
1916	24,105,381	91,521,198	26.3
1917	24,423,507	92,814,202	26.3
1918	19,701,820	71,081,663	27.7
1919	22,747,956	80,777,935	28.2
1920	25,417,956	100,023,245	25.4

[fol. 43] The elementary facts relating to the commodity, from which sundry conditions and practices of the industry referred to in the Petition have gradually evolved:

(1) Portland cement as an article of commerce is defined and generally marketed by reference to standard specifications and tests. Those now in force are the result of several years' work of a special committee representing the United States Government, the American Society of Civil Engineers, and the American Society for Testing Materials. They prescribe the chemical limits, the specific gravity, the fineness, the soundness, the time of setting, the tensile strength, how the samples should be treated, and the like. These tests and specifications developed from the importance or necessity of insuring a definite standard of strength and character in a material upon which the stability of great works and the safety of many people depend, and have for many years been the recognized and established means by which Portland cement has been defined, demanded, offered and sold.

The commodity being thus completely standardized, presents an exceptionally clearcut example of commercial homogeneity. The character and strength of the commodity as demonstrated by the standard specifications and tests being the basis upon which the engineer has figured, and the thing demanded by the purchaser and user being simply a thing which meets those specifications and tests regardless of its origin, the product of one manufacturer meeting them is commercially identical with the like product of any other manufacturer, and Portland cement produced by one manufacturer does not command a higher or lower price than Portland cement produced by others.

[fol. 43^{1/2}] The commodity is accordingly one which is to an exceptional degree governed by the economic law that

"When a commodity is perfectly uniform or homogeneous in quality, any portion may be indifferently used in place of an equal portion; hence in the same market, and at the same moment all portions must be exchanged at the same ratio. * * * Where no difference exists at all, or where no difference is known to exist, there can be no ground for preference whatever. If in selling a quantity of perfectly equal and uniform barrels of flour a merchant arbitrarily fixed different prices on them, a purchaser would, of course, select the cheaper ones; and where there was absolutely no difference in the thing purchased, even an excess of a penny in the price of anything worth a thousand pounds would be a valid ground of choice. Hence follows what is undoubtedly true, with the proper explanations, that in the same open market, at any one moment, there cannot be two prices for the same kind of article" (Jevons, "The Theory of Political Economy," p. 90).

(2) The commodity is of little intrinsic value in proportion to weight and bulk and ruined by exposure, so storage is expensive and risky; and carrying in storage to supply contracts for future

delivery is economically impracticable. Contracts for future delivery of Portland cement are, accordingly, not sales of an article in existence, but contracts for cement which will be manufactured some time in the future, at or near the time of delivery, and such contracts at a price fixed long prior to delivery, represent dealing in futures and embrace an important element of speculation as to future costs and conditions.

[fol. 44] (3) The commodity is in the form of a powder so fine that 78 per cent will pass through a sieve having 40,000 holes to a square inch—a sieve which will practically hold water. In salable quantities it is heavy, the standard barrel containing 376 pounds net, and the smallest salable unit, the standard bag, containing 94 pounds net. The handling and shipping of a commodity of such fineness and weight necessitates the use of packages of unusual cost and value in proportion to the value of the contents. Some little cement is sold in wooden barrels, a little in heavy paper bags and a little in bulk, but the general form of package is a sack of heavy, high grade cotton duck, capable of holding the fine powder and resisting without tearing or bursting, the strains resulting from the rough handling, and from piling and jolting incident to transportation of the heavy weights. Such bags, suitable for effecting one delivery, are not destroyed thereby but remain suitable for other deliveries.

This characteristic of the commodity has given rise to the practice of manufacturers taking back the bags for use in subsequent shipments. Among the defendants the practice takes different forms, some retaining title to their bags (with a view to compelling their return) and others selling the packaged cement as a unit and paying for the bags returned in usable condition, whatever part of the purchase price the purchaser has paid for bags.

(4) The commodity is heavy, shipped in packages, and must be protected in transit; and freight rates are of controlling importance in determining the radius of shipment from any mill and in determining the lowest price at which a purchaser at any point of delivery can buy the commodity.

[fol. 44½] (5) The commodity in usable quantities can be handled and distributed only by means of suitable equipment, and the dealer (with employees and trucks to take the cement from railroad cars and buildings temporarily to receive and protect the cement, etc.) plays an exceptionally important economic part in the industry, in addition to his exceptional competitive importance by reason of the commercial identity of the product of all manufacturers, the competition between them, his local good will, and the demand he controls by reason of the fact that the purchaser of cement from a dealer generally purchases the cement as incidental to other materials purchased from him and otherwise.

(6) The potential production capacity exceeds the demand for the commodity—"the industry has never been able to market over probably 75 per cent of its capacity" (U. S. Dept. of Agriculture,

Public Roads, January, 1921, p. 9), and the difficulty and necessity of effecting sales have exerted more influence than production in shaping practices in the industry, most of which have developed from the market back to the mill as distinguished from developing from the mill out to the market.

(7) The variety of uses of the commodity is correctly indicated in the Petition. The additional facts relating to the use of the commodity which seem relevant to the allegations of the Petition are:

Complete records of the proportionate amount of cement devoted to different uses have not been available to these defendants. An examination of contracts for future delivery of cement by these defendants representing about a third of all the cement sold by them (the rest being their current business of which no relevant records [fol. 45] exist) during the year 1920, discloses the fact that about one-tenth of the cement so sold was for housing operations, the figures being as follows:

Concrete roads and street paving.....	30.5	per cent
Industrial operations	32.8	" "
Federal, State and Municipal Operations.....	5.4	" "
Bridges, water power and sewers.....	9.7	" "
Housing operations	10.4	" "
Railroad operations	3.8	" "
Miscellaneous	7.4	" "

In the average suburban or country dwelling of frame construction with concrete sidewalks, etc., costing \$8,000 to \$10,000, the cost of the cement varies from $1\frac{1}{2}$ to 2 per cent of the cost of the building. In typical metropolitan office buildings of fireproof construction, the cost of the cement varies from $1\frac{1}{2}$ to 3 per cent of the total cost of the building. In typical metropolitan apartment buildings, the cost of the cement varies from 1.7 to 2.1 per cent of the total cost of the building. Even in typical reinforced concrete buildings (in which the only material entering into foundation, walls, floors and roof, is reinforced concrete), the cost of the cement averages about $6\frac{1}{2}$ per cent of the cost of the building. The variation in the manufacturer's price per barrel is in all instances an inconsiderable item in the total cost.

In housing operations, the cement used represents, on the average, about 2 per cent of the total cost of the building. That, translated into concrete figures, means that a difference of 10¢ a barrel in the price of cement makes a total difference of about \$5 for each \$10,000 spent in building. This 10¢ a barrel represents the difference between [fol. 45 $\frac{1}{2}$] the manufacturer's part of the market prices of cement in the northeastern portion of the United States when, and for some months before, the Petition was filed and the corresponding price fixed by the Government with a view to discouraging production when the cost of manufacture was much lower in 1918. In a large part of the territory the 10¢ a barrel represents an advance. In the remainder, it represents a decline from the Government price.

(8) The competition affecting the sale of Portland cement is between individual manufacturers of the standard product, between those different geographical localities where the standard product is manufactured and whence it is shipped to the same markets, and between Portland cement and other construction materials.

(9) The commodity is used only as one ingredient of a concreted whole composed of mixtures of the commodity with other materials, such as sand, stone and gravel, manipulated in differing proportions with the addition of water into plastic compounds which may be cast and harden. The demand for the commodity depends upon knowledge as to how the concreted whole should be made and used for various purposes, and upon the intelligent practice of such knowledge, more than upon the mere character of the commodity, which is limited by chemical laws and fixed by standard specifications. Adequate investigation and education of users in the proper uses of the commodity, is beyond the resources of any single manufacturer and calls for action by the industry as a whole.

[fol. 46]

IV

General Conditions Under Which the Portland Cement Industry Has Been Conducted Since 1902

The accuracy of the allegation that "as early as 1902 it was apparent that the manufacture of Portland cement was destined to become one of the leading industries in the United States" depends upon the observer with respect to whom the allegation is made. In fact, the destiny of the industry has appeared differently to different persons in 1902, and before, and since. Many have overestimated the rapidity of the growth of the industry so that the production capacity has always exceeded the consumption, and the resulting intense competition has made the history of the industry one of low prices, failures of the less efficient and survival of the fittest, occasional bitter trade wars (such as that hereinafter described on p. 34) and other incidents of the play of economic forces in an industry wherein there are numerous independent producers of a thing commercially homogeneous.

The defendants deny that "from the latter part of 1902 down to the present time," or at all, the Portland cement industry, or the portion thereof with which they or any of them are connected, has been in whole or in part subjected directly or indirectly to any restraining influence in the nature of agreement, combination or conspiracy, entered into or carried out through the instrumentality of organizations known as associations or otherwise, or at all; and they refer to the following general facts as showing the general conditions which have prevailed:

[fol. 46½] (1) The corporate defendants are independent companies, each representing capital and interests separate and distinct from all the others. They are some of the present survivors of the

many independent enterprises which have been started in the industry. While full records have not been available to these defendants, they are informed by such records as have been found and allege that upwards of 321 separate companies have been incorporated for the manufacture of Portland cement in the United States; of which about 60 did not succeed in enlisting sufficient capital to begin operations; upwards of 30 (having capital ranging from less than \$1,000,000 to \$12,500,000) have failed and been wound up; upwards of 90 have gone out of business for want of success; upwards of 20 have failed but proceeded after reorganization; upwards of 30 have not succeeded independently and have been taken over and carried by stronger and more efficient companies. About 85 companies are in operation at present, having thus far survived (with sundry reorganizations) the conditions which have prevailed and now prevail in this "most individualistic of the larger branches of manufacture."

(2) While bitter trade wars have occurred occasionally throughout the history of the industry, one illustration will suffice, because it concerned these defendants and occurred while substantially all of the things alleged in the Petition as constituting or contributing to restraint were in full operation.

In the early part of 1915—according to the Petition the thirteenth year of the "combination and conspiracy"—one of these trade wars (wherein competing defendants arbitrarily reduced prices well below cost and took large consequent losses solely in the hope that the damage thus inflicted would improve their own ultimate position in the competition) was in progress, with the result that each of these defendants then selling cement was selling below the actual cost of production during each month while this trade war continued.

The average price per barrel of cement in the United States in 1914 was \$.927. The average price per barrel received by the seventeen defendant corporations operating in 1914 was \$.861, and the average cost per barrel was \$.739, a difference of \$.122 per barrel. With this margin of about \$.12 per barrel for the year as a starting point, and with the average cost per barrel in December, 1914, higher than the corresponding figure of the previous year, through the usual process of sufficient quantities being offered at reduced prices and others being forced to meet the reduction or not sell, at the end of December, 1914, prices in this section generally dropped 5¢ a barrel, about the middle of January 5¢ more, about the middle of February 5¢ more, and about the middle of March 10¢ more, where they remained until the end of May, when that particular trade war ended and prices began to rise, so that during June and July they were only slightly below the average cost per barrel and by the end of July cement was selling above cost of manufacture. From the middle of March until the end of May, substantially all the seventeen defendants then operating were offering and selling cement at prices which minus freight yielded considerably less than \$.60 a barrel. The average cost per barrel of the defendant corporations in 1915 was \$.679. In other words, the

prices at which these defendants were selling cement were more than ten cents a barrel below the average cost. The extraordinarily low prices of the cement of the defendant corporations during this [fol. 47½] period were due to competition "of the cut-throat variety" between some of them, such as occasionally occurs in the industry.

During the period the defendant corporations were members of the Portland Cement Association, then substantially the same as now, each defendant corporation receiving monthly statistics of production, shipments and stocks on hand; and the bitter competition illustrates the fact that such reports exert no restraining influence.

(3) The defendants deny that they or any of them have belonged to, or have knowledge of the existence in the cement industry of any association "organized along the lines of what have come to be generally known as the Eddy Plan, The New Competition, Open Price Plan, and Open Competition Plan."

Associations organized along the lines so known are, as these defendants are informed, characterized by the fact that they exist primarily for what is called the "Open Price," meaning thereby that the members make known to each other current prices, bids and quotations, frequently with discussion thereof or comment thereon by either the members or officials of the association, all in such manner that there may or may not in fact result some understanding, or surrender or coercion of the will of the individual member, or restraint, with respect to price.

The associations, Portland Cement Association and Cement Manufacturers Protective Association mentioned in the Petition, exist and operate for purposes and with results having no connection with price, hereinafter fully set forth (pp. 71-140). Neither is an "Open Price" Association. Neither collects or distributes current prices, bids or quotations. Neither discusses or comments on price [fol. 48] figures. Neither embraces any element of agreement or understanding, or surrender or coercion of the will of the individual member, or restraint, with respect to any part of the member's conduct or activities.

The Places of the Associations Mentioned in the Cement Industry

The allegations of the Petition attributing any control of the conduct of any of the defendant corporations to any association or any activity thereof, are all denied.

The two associations of which defendant corporations (with the exceptions noted) are members, occupy a comparatively small place in the business life of each defendant corporation, and exert no control whatsoever over its conduct. The relation of each association to each defendant is, in substance, as follows:

As to the Portland Cement Association, each defendant corporation makes a contribution (measured by about a cent per barrel) to create a demand for its product, this representing the least expensive, most effective and only practicable way of maintaining and

increasing the demand for the commodity it is offering, as hereinafter explained; each, if it wants to, sends some of its executives, mill-men or other agents to attend meetings or conventions three times a year, where they may refresh themselves and learn of the progress of their calling; and each receives from time to time printed matter of professional interest, a comparatively trifling part of which comprises monthly statistics of production, shipments and stocks. The activities of this Association are referred to more fully hereinafter. Aside from its principal activity in increasing the demand for the product, membership in this Association bears substantially [fol. 48½] the same relation to the conduct of the business of each manufacturer as membership in, say, the American Medical Association or other association which holds conventions and distributes technically informative literature, bears to the individual practice of each physician or worker in other fields. The Association has not limited or controlled, and does not limit or control any part of the complete freedom of any manufacturer in any respect whatsoever.

As to the Cement Manufacturers Protective Association, each defendant corporation makes a contribution (measured by a mill or so or fraction thereof per barrel) to secure, in the only possible way, information which will enable it to know the extent of its own obligations for future delivery of cement entering into specific pieces of construction and protect itself against being defrauded by misrepresentation relative thereto, together with certain limited information which may assist in enabling it to arrive at conclusions about extending credits, and a mechanically-convenient list of the official freight rates, which makes unnecessary the maintenance of a multiplicity of separate bureaus of traffic experts each duplicating the work of all the others and thus saves each manufacturer much expense. Each defendant corporation may send a credit man or man who has to do with its contracts, or both, to short monthly meetings to assist in conducting the business of the Association (conducted democratically and without any representative board) which involves, and in nearly six years of operation has in fact occasioned no consideration whatsoever of specific figures or facts comprised in the information and no comment whatsoever on the conduct of anyone with respect to such figures or facts. In addition to these [fol. 49] more important pieces of information, each defendant corporation obtains from this Association also statistics of production, shipments and stocks. The activities of this Association are set forth fully hereinafter (*infra*, p. 98). It occupies a comparatively small place in the business life of each manufacturer performing services which could not otherwise be secured, and exerting no restraint whatsoever upon its complete freedom of action in all things.

The lines along which Cement Manufacturers Protective Association has been organized and operated are accurately recited in the copy of the plan, constitution and by-laws attached hereto and made a part hereof, considered and adopted at the time of the organization

of the Association and strictly adhered to throughout all its existence and activities (Exhibit IV, p. 186).

The important purposes of both of said Associations are unrelated to supplying statistical data, and the allegation that "the outstanding and most fundamental principle of all is the exchange between members of comprehensive statistical data," is, accordingly, denied. As an activity of comparatively secondary importance and wholly separable from other more important activities, the Portland Cement Association for nearly twenty years, and the Cement Manufacturers Protective Association since 1916, has each collected and disseminated certain statistical data confined to showing the existing supply, as they are now doing, as fully set forth hereinafter (*infra*, pp. 81, 123).

As demonstrated by the history of the past, the collection and distribution of monthly statistics of production, shipments and stock on hand have not, in this particular industry, been sufficient to exert [fol. 49½] any restraining influence whatsoever, or even to prevent trade wars, sales below cost, and other incidents of the most intense competition.

These statistics are in substance those which have been collected and distributed by the United States Government in the statistics of the Cement Industry published by the Geological Survey each year since 1884, the only material differences being in the promptness and accuracy with which the same kind of information is supplied. They are the same in kind as those supplied by the Federal Reserve Banks, the Bureau of Mines, the Secretary of Commerce, the Secretary of Agriculture, the Treasury Department, the Department of the Interior, the Federal Trade Commission, the Produce Exchange, numerous trade publications like the "Iron Age," "Dun's Review," "Bradstreet's Review," "Engineering News" and various other private agencies. They represent such information as any one engaging in manufacturing must have, unless his operations are to be conducted in blind and haphazard fashion, resulting in shortages of cement to meet the demand, high prices and great profits at certain times, and over-production, shut-downs and unemployment at other times.

Accordingly the allegations of the Petition as to the lines along which these Associations are organized are denied, but it is admitted that one wholly separable activity of the Portland Cement Association and of the Cement Manufacturers Protective Association has been the exchange of statistical data concerning production, shipments and stocks on hand, and that such data exchanged through the last-named Association enables each member to know what its competitors have produced, have contracted to deliver, have shipped [fol. 50] and have on hand—in a word, the existing supply, and freely to exercise its unrestrained judgment and will with that information before it.

The So-called National Association

For the purposes of this suit the defendants (the corporations being not quite a fourth of the members) admit that the Associa-

tion of American Portland Cement Manufacturers was organized in the latter part of 1902, and that its first annual meeting was held on December 9, 1902 (but said meeting was held in New York City and not in the Bellevue Hotel, at Philadelphia, Pa., as alleged in the Petition); that the name of the Association was changed to Portland Cement Association at a meeting held in Chicago, Ill., in May, 1916; that the principal office has been in Chicago since 1916; that the Association also maintains branch offices in twenty-one cities throughout the United States; that practically every company manufacturing cement in the United States is a member of this Association; that the defendant corporations are members of said Association and representatives of certain of them participated in its organization and have taken an active part in the conduct of its affairs; and that manufacturers making 95 per cent of all Portland cement made in the United States are members of the Association.

Defendants deny that the power or importance of said Association is indicated by the shipments of its members and aver that its power and importance, or the lack thereof, are indicated by the limits of its activities as defined by its constitution, by-laws and practices during many years, as hereinafter set forth (*infra*, p. 71).

For the purposes of this suit the defendants admit that the Association [fol. 50½] has held meetings from time to time in various cities, including Philadelphia, Pa., New York City, N. Y., Atlantic City, N. J., Detroit, Mich., Cleveland, Ohio, and San Francisco, Calif., which were largely attended by representatives of the member companies from all sections of the United States where Portland cement is manufactured.

Defendants deny that the activities of that Association, or any of them, have facilitated the accomplishment of any unlawful restraint of interstate trade or commerce in Portland cement. During the period that said Association has been functioning with all the activities referred to in the Petition in operation as fully as they ever have been, and subsequent to most of the incidents singled out for reference in the Petition, the intense competition existing between these defendant corporations has at all times continued and has at times been marked by the bitterness of what has been termed in Government reports thereof "the cut-throat variety."

License Association—Abandoned 1910

For the purposes of this suit defendants admit the allegation that from 1908 to 1911 certain of the defendant corporations, viz., Atlas, Alpha, Bath, Dexter, Edison, Glens Falls, Lehigh, Phoenix and Vulcanite were organized together as members of the Association of Licensed Cement Manufacturers, the facts concerning said Association being as follows:

Prior to the formation of said Association, certain of the defendants named, after exhaustive investigation in litigation of United States Letters Patent No. 645,031 of March 6, 1900, to Hurry and Seaman, purporting to cover a pioneer invention, consisting in sub-[fol. 51] stance of an apparatus comprising "means" for calcining and clinkering cement by the use of pulverized coal in rotary kilns,

instead of the more expensive oil theretofore used, considering the controlling effect which said patent would or might exert on their businesses and the cement industry had formed a corporation which had secured a license with power to sub-license under said patent, upon payment of a royalty of \$200,000 a year, which royalty was in fact paid.

Hurry and Seaman were "the first to burn powdered coal with commercially successful results in rotary kilns" (196 Fed. 385, 398). The position of the Portland cement industry in the United States has been attributed (in the reports of the United States *Geographical Survey* and elsewhere) to the reduction in price resulting from reduced manufacturing costs largely effected by the successful burning of powdered coal in rotary kilns which overcame the lower labor costs of foreign manufacturers and the mounting prices of rival construction materials. An illustration of the apparatus of the patent appears in the *Encyclopædia Britannica*, 11th Ed. Vol. V, page 656, under the designation, "Hurry and Seaman's System." The patent is discussed in the opinion of the United States Court of Appeals for the Seventh Circuit in 196 Fed. 385, handed down January 2, 1912.

The licenses under said patent for approximately two years ending with 1910, were limited to the use of the invention in making cement sold at not less than a minimum price, which price was in fact, little more than the actual cost, said limitation on the licenses applying to cement sold in certain territory but not all territory served by the licensees. The prices received by the licensees were in fact from 8 to 16 cents per barrel less than the average price in the United [fol. 51½] States while the limitations were in force. (See Cement in 1909, Cement in 1910, U. S. Geol. Survey.) Said licenses and associations were based directly on a similar contract and arrangement, endorsed by the United States Court of Appeals for the Seventh Circuit, and entered into in reliance on said decision, and the advice of counsel learned in the law, and were in accordance with the view of the law then generally prevailing and commonly acted upon in many industries. Thereafter the view of the law set forth in said decision of the Court of Appeals was questioned, and it was suggested that such limitations in patent licenses were regarded by some as improper, whereupon, in January, 1911, and more than ten years prior to the filing of the Petition herein, the limitations on the licenses with respect to price and other conditions, were cancelled, and said Association and all activities relating thereto abandoned.

These defendants do not know whether or not the limitations in said licenses were clearly, or at all, in violation of the Sherman Anti-Trust Act as interpreted since they were abandoned. Excepting said limitations they deny that they, or any of them, have agreed to do or have done anything in violation of said Act.

Sectional Organizations

The defendants deny that in the year 1915, or at all, it was determined that any of the duties of the National Association could be

more satisfactorily or expeditiously, or at all, performed by any other organization, and aver that no activity of the Portland Cement Association (referred to in the Petition as the National Association) [fol. 52] has been taken over by any sectional or other organization, and said Association continues to perform its duties and activities without regard to, and wholly independent of, any activity of any other association.

The defendants admit that the so-called National Association is, and has always been, free to concentrate, and has concentrated, its efforts upon problems affecting the interests of the industry as a whole.

The defendants deny that the sectional organizations referred to in the Petition, or any of them, were formed pursuant to any plan embracing more than one association, and say that the facts relating to the organizations mentioned, so far as known to these defendants, are as follows:

Cement Manufacturers' Protective Association, with headquarters at New York City, N. Y., was organized on January 6, 1916, to meet certain conditions, by the means hereinafter specified, independently and without suggestion from any existing association or regard to the subsequent formation of any other association.

The Mid-West Cement Credit and Statistical Bureau, these defendants are informed, was organized by cement manufacturers in the middle west upwards of a year later, and in 1917, substantially along the lines of the Cement Manufacturers Protective Association.

The Southern Audit and Statistical Bureau is said to be a name under which an individual conducts a bureau engaged in collecting and supplying to manufacturers information. None of these defendants has knowledge or information of any of the details of said Bureau or its activities.

Norcross Audit and Statistical Bureau is said to be conducted by the same individual and in the same manner as the Bureau last mentioned.

[fol. 52½] Southern Statistical Bureau was commenced in the year 1918. Its activities are said to be in substance, but not in form, much like those of Cement Manufacturers Protective Association.

The defendants admit that these so-called sectional organizations have no connection whatsoever with the National Association.

The defendants admit that the National Association, its officers and members and the other so-called sectional organizations, their officers and members, are not made parties hereto.

The So-called Eastern Association

The defendants admit that the Cement Manufacturers Protective Association is an unincorporated body, organized at a meeting held at the Engineers' Club in New York City, N. Y., on January 6th, 1916, attended by representatives of the defendant corporations, Atlas Company, Alpha Company, Allentown Company, Coplay Company, Dexter Company, Edison Company, Giant Company, Glens Falls Company, Lehigh Company, Penn-Allen Company, Pennsylv-

vania Company, Phoenix Company and Vulcanite Company, but not by any representatives of the other companies named as defendants; and that the office of the Association was maintained at Philadelphia, Pa., until April 1, 1918, when it was removed to its present location in New York City.

The constitution of the defendant Cement Manufacturers Protective Association accurately states its objects to be as follows:

[fol. 53]

Article III

Objects

The objects of the Association are the collection and dissemination of such accurate information as may serve to protect each manufacturer against misrepresentation, deception and imposition and enable him to conduct his business exactly as he pleases in every respect and particular, free from misdirection by false or insufficient information concerning the matters following, to wit:

- (a) Information concerning credits.
- (b) Information concerning contracts which had been made for the delivery of cement, sufficiently complete to enable the manufacturer to protect himself against spurious contracts and like transactions induced by misrepresentation.
- (c) Information concerning freight rates on cement.
- (d) Statistical information as to production, stocks of cement and clinker on hand, and shipments."

The facts which seem necessary to enable one unfamiliar with the Portland Cement Industry fully to understand these objects and the means and activities directed toward their accomplishment are explained hereinafter (p. 98) in answer to the allegations of the Petition concerning "2. Activities of the Eastern Association."

Defendants admit that defendant corporations are now members of said Association (with the exceptions hereinbefore noted); that the representatives of the majority of the defendants have participated in the conduct of the business of the Association from the date of its organization; and that the individual defendants named as President [fol. 53½] and Treasurer, at present occupy those offices, their duties being in substance respectively, to preside at meetings and to serve as custodian of the funds. The other individuals named as Vice President and Secretary are employees of the Association, without any interest in any cement company, performing ministerially work assigned to them by the Association.

The allegation that defendant corporations manufacture between 25,000,000 and 30,000,000 barrels of Portland cement annually, which is upwards of 90 per cent of the quantity annually produced in the northeastern section of the United States, is admitted, but large quantities of Portland cement not produced in said section are shipped into and sold there by companies producing near the borders thereof.

The defendants deny the allegation that the "defendant Eastern Association has held frequent meetings, monthly, semi-monthly and special." That Association, since its organization in January, 1916, has held regular monthly meetings, except in twelve months when the meeting was omitted, and a few special meetings, one a few weeks after the organization meeting to start the work; one to deal with the matter of contract investigation, hereinafter (p. 112) explained; and another upon the filing of the Petition herein to arrange for the presentation of the facts.

The meetings have been short and concerned with the business of the Association, usually lasting about half an hour. As to the allegation that the meetings have been "largely attended," the fact is that about a third of the member companies are not represented on the average, the attendances being much better during the winter [fol. 54] months of comparative inactivity than in the cement season when it has often been difficult or impossible to get together a quorum of half the members. They have been attended by those who have to do with credits and contracts and not by those having power to control the prices or conduct of the defendant corporations except in so far as, in the case of some of the companies, different functions may be performed by the same individual.

Everything said by any one at the meetings has been taken down verbatim by uninterested skilled stenographers called in for the purpose, promptly printed and forwarded to the Federal Trade Commission. During the first year 1916, when there was considerable talk about offices, employees and other incidents of starting and the work of the Association was new to those in attendance, the remarks for the year covered 580 pages; in 1917 all the remarks during the year covered 159 pages; in 1918, 180 pages; in 1919, 112 pages; in 1920, 98 pages; 1921, 55 pages. Much of this consists of pages devoted to recording attendances, the Treasurer's report and remarks too trivial for recording except for the rule that every word is put in the record. The rest relates to the work of the Association with no reference to price or production or the like or the conduct of the business of any member.

Accordingly the allegations or imputations that the meetings have been of frequent occurrence or much importance, are denied. The business transacted at the meetings is explained hereunder (p. 126) in connection with the allegations of the Petition, "2. Activities of the Eastern Association."

[fol. 54½] The defendants deny that the activities of defendant, Eastern Association, or any of such activities, have facilitated the accomplishment of any unlawful restraint of interstate trade or commerce in Portland cement.

Conditions During the War Period

The defendants admit that Portland cement ranked next in importance to lumber as a war building material; that its prominence in the war program was realized as early as April, 1917, when the

congestion of Government orders at certain points along the Atlantic Seaboard threatened to cause local shortages and sharp rises in price; that the production of cement was ample for the increased requirements of the war, even without drawing on the excess production capacity of the cement mills; that the declining consumption of cement resulting from the curtailment of normal construction operations was sufficient to offset the new orders for the Government; and that the Government deemed it necessary and did allocate the supply and fix prices to be paid by the Government.

The allegation that "the price to the general public was never fixed" is not the whole truth and, accordingly, denied. Even the fixing of prices to be paid by the Government was matter of "negotiation and agreement between the Government and the industry" as distinguished from direct legal decree. (See American Industry in the War. Gov. Print. Off. 1921, pp. 72, 74.) From April, 1917, the cement industry was represented by the officially-constituted War Service Committee on Portland Cement, and through that Committee the cement industry fully and loyally played its part in accomplishing the common object. The process consisted in the [fol. 55] War Service Committee agreeing with the representatives of the Government, the Price Fixing Committee of the War Industries Board, as to prices for cement, bags, etc., to the public as well as the Government, and sending bulletins of the results to all cement companies, which observed them as a war-time duty. As between the Committee and the Government it was understood, and expressed, that the prices to the general public might be fixed by Government action, unless kept down by voluntary co-operation; and the Government representatives were at all times fully advised concerning, and agreed to the prices thus made to the general public. Commercial prices were thus as effectively fixed as they would have been by formal Government action.

The allegation of the Petition as to the representatives of the Government finding "the Portland cement industry already well organized, which facilitated the immediate appointment on April 21, 1917, of a "Co-operative Committee on cement" is less accurate than the statement in "Government Control Over Prices," published by the War Trade Board, from which it is apparently borrowed; the original and accurate statement reading:

*"The Portland cement industry had a large degree of cohesion before the War for the purpose of pushing the sale of cement, in competition with lumber, brick and stone, although the price competition between the various cement mills had bordered on the cut-throat variety. This organization, nevertheless, facilitated the quick appointment of a 'co-operative committee on cement' under the Council of National Defense on April 21, 1917 (Government Control Over [fol. 55½] Prices, pp. 334-5)."**

The allegation of the Petition that the prices so fixed "were higher than the prices which had been obtained at any time during a

* Italics ours.

period of 15 years preceding the war," is admitted, but it is respectfully pointed out that the comparison is misleading since it omits all the facts concerning costs and conditions which control all prices. The price of cement was in fact made low for the expressed purpose of discouraging production, and the price to the Government was made extremely low, because, as stated in the review of the industry by the United States Geological Survey, "Cement in 1918":—

"It was deemed possible to make these prices to the Government because of the fact that the burden, admittedly small [each manufacturer supplying 5% of his production], would also be evenly distributed, so that when the quota of the mills in a locality had been supplied any additional cement would have to be shipped from the nearest locality whose quota had not been exhausted, and the price would then be the base price of the shipping locality plus the freight to the point of delivery." (p. 580-1.)

The principles applied in fixing prices for cement are thus expressed in "Government Control Over Prices," published by the War Trade Board in 1920:—

"The prices of building materials were not fixed at a level that would stimulate production but rather at a level that would actually curtail the output of materials for construction. * * * Private building was regarded as non-essential during the war, and every [fol. 56] effort was made by fuel curtailments, refusals to grant priorities for cars, etc., to discourage normal building. The result * * * was to reduce the demand for new building faster than the manufacturers of building materials could curtail production. The Government consequently had no difficulty in securing sufficient supplies * * *. In fixing prices the policy was accordingly adopted of allowing the producers of building materials such a price as would yield them only a normal return on their investment. Where the normal return on the investment was low on account of keen competition—as it usually was in the building materials industries—only a low return on the investment was allowed. Thus the prices fixed on common brick * * * and the cement prices yielded 6% on the investment. * * * The Government thus held down the prices of building materials because the production was in excess of all essential war needs, and it was desirable in the interest of war conservation to enforce a price so low that it would actually close down the marginal plants. The effect of this low-price policy is shown by the fact that the average price of lumber and the average price of cement increased only 73% between 1913 and the end of 1918 as contrasted with 102% for all commodities" (p. 331-2).

Further on, the price is explained thus:—

"The general supply of cement was so ample, as compared with needs, that the Fuel Administration on April 13, 1918, reduced the fuel allotment of the cement mills to 75% of normal on the theory

that part of the fuel used in the cement industry could be better employed in other war industries. There was consequently no occasion [fol. 56 $\frac{1}{2}$] for stimulating cement production by high prices, and the lowering of the margin of profit for the purpose of curtailing production was entirely justified" (p. 336).

Movement of Prices Since Relinquishment of Government War Control Thereof

The allegation that "the war prices were lower than the prices which have prevailed at any time since the Government relinquished control of prices," and the allegation that "shortly after the termination of Governmental supervision * * * the price of Portland cement advanced by leaps and bounds" are denied. In order to answer the charges of the Petitioner, the prices of each defendant corporation have been for the first time collected. The fact is that, in the territory served by these defendants, after the relinquishment of Government control the prices remained unchanged for an unimportant short period, then declined \$.15 per barrel (\$.10 in a small portion of the territory) and remained \$.15 per barrel below the prices of Government control, notwithstanding materially advancing costs, for approximately a year and until April, 1920. The allegations of the Petition aforesaid are accordingly the opposite of the facts and denied.

An examination of the details of the price movements which have occurred since the relinquishment of the Government control, contradicts all allegations of the Petition as to "combination and conspiracy" and tends to explain the economic causes of some of the "results"; and the facts are accordingly here recited and explained in some detail:

[fol. 57] (1) The great number of different prices at the different points in the territory, agreed upon with the Government, were expressed in a form long practiced by a manufacturer within his organization (hereinafter fully explained in connection with "freight basing points," *infra*, p. 142) by naming a price at each of the points whence is shipped enough cement to affect the market, so that anyone taking those prices and adding the respective freight rates to any delivery point could, by comparison of the totals, find the lowest price at which a purchaser at any delivery point could buy cement, which price (by reason of the homogeneity of the article and the competition) is inevitably the market price of cement at that delivery point, except under unusual conditions of shortage of the usual supply such as resulted, a year or so ago, from the inability of the railroads to supply cars or make deliveries of freight.

The prices to the public so arranged with the Government to control to 1919, were, so far as here relevant:

Hudson, N. Y.....	\$2.00
Lehigh Valley, Pa.....	1.90
Universal, Pa.....	1.85
Fordwick, Va.....	1.90

That meant that the price at which a purchaser could buy cement at any point throughout the northeastern section of the United States was the lowest figure resulting from adding any of the foregoing prices to the freight from the point named to the delivery point at which the purchaser was located. For instance the freight rates to Altoona, Pa., being from Universal \$.41 and from Lehigh Valley \$.49, the lowest price at which cement would sell at Altoona (exclusive of package) was [fol. 57¹/₂] \$2.26 (\$1.85 at Universal plus \$.41 freight), and the manufacturer shipping from the Lehigh Valley was forced by the competition to sell his cement at Altoona at \$2.26, thus receiving at his mill \$1.77, (\$2.26 minus \$.49 freight). At Harrisburg, Pa., the freight rate being \$.49 from Universal, and \$.43 from Lehigh Valley, cement would sell at \$2.33 (\$1.90 Lehigh Valley plus \$.43 freight, making a lower price than \$1.85 Universal plus \$.49 freight, or \$2.34, and the lowest price always controlling), the manufacturer shipping from the Lehigh Valley realizing \$1.90, and the manufacturer shipping from Universal realizing \$1.84. So at Boston, Mass., the freight rates being from Hudson \$.47 and from Lehigh \$.59, cement would sell at \$2.47; the manufacturer shipping from Hudson realizing \$2.00, and the manufacturer shipping from Lehigh Valley realizing \$1.88. To Binghamton, N. Y., or Elmira, N. Y., the freight being \$.67 from Hudson and \$.61 from Lehigh Valley, cement would sell at \$2.51, and the manufacturer shipping from Lehigh Valley would realize \$1.90; whereas the manufacturer shipping from Hudson would realize \$1.84. In every case the competition compels the manufacturer to absorb or pay whatever is necessary to bring the price at which the purchaser can get his cement down to the lowest price at which that purchaser can buy enough cement at that point.

(2) The prices thus fixed remained substantially as they were for the first three months of 1919, which was a period of inactivity in this portion of the industry, because the seasonal inactivity in construction work was intensified by general conditions.

In March, 1919, the so-called Governmental Peake Committee called together cement manufacturers, including defendant corporations and urged them to make temporary individual sacrifices by [fol. 58] disregarding the usual factors of costs and the like and arbitrarily reducing the prices of cement, as a contribution towards starting a general recovery from the war. Thereupon each of a number of defendant corporations arbitrarily reduced the prices at which they offered cement \$.15 a barrel.

This price movement was extraordinary and not typical, except in so far as the fact that about half the manufacturers made the arbitrary reductions on April 1st, 1919, and the rest made them on April 2nd and 3rd illustrates the general rule that cement cannot be sold to any material extent anywhere at a price above the price at which abundant supplies of it can be there bought; and when a manufacturer or manufacturers with large supplies offer cement at a reduced price, all other manufacturers must meet the reduction,

practically as quickly as reports of the new offering can reach their offices from the markets and their instructions to salesmen and new quotations can be sent out, so that a movement of prices downward is commonly completed in the territory affected within two or three days after the cement of any manufacturer or manufacturers in quantities sufficient to affect the market, is offered at a reduced price.

The subsequent movement of prices and explanations thereof, sufficiently illustrate and demonstrate certain general facts concerning prices in this portion of the industry, although the period, economically, has been extraordinary; and these generalities are here stated to make plainer the recital of facts:

(i) Disregarding exceptional conditions temporarily affecting the immediate supply or demand at any or all points, such as the failure of transportation facilities and like disturbances, according to the operation of the usual economic factors, the price level at [fol. 58 $\frac{1}{2}$] which cement of any manufacturer sells at any point is the lowest price at which enough of the article can there be bought, which price represents an existing balance between the upward pressure of his costs, desire for profits, etc., and the downward pressure of supplies of the same thing offered the same purchaser by his competitors.

(ii) The individual costs of one manufacturer may control his acts and whether he will continue to sell, but they do not alone change the market prices, which move only under the influence of general costs or conditions affecting a large enough supply to change the figure at which purchasers can in fact obtain their actual cement requirements.

Thus a manufacturer producing a comparatively small quantity of cement may sell his entire available output at a price below the market without affecting the market prices, or a particular manufacturer may fix a price above the market (or shut down) without advancing the market prices.

(iii) By reason of the intensity of the competition a movement of prices downward occurs easily and promptly upon a sufficient quantity of cement being offered at reduced prices and is commonly complete as to all the competitors affected within two or three days of the first offering at the reduced prices.

(iv) For the same reason an advance in prices occurs irregularly and slowly and is generally not completed as to all the competitors for approximately a month.

An advance on account of increased costs occurs after general costs and conditions have changed so that enough pressure has extended [fol. 59] to manufacturers without whose cement a shortage in the market would result. When general costs have come so close to the amount realized from the market prices that a sufficient number of manufacturers are, variously, making little, making nothing, and selling below cost, some one of them inevitably, sooner or later, concludes that he would rather let the business go to his competitors

than continue to sell at his then prices, and accordingly names higher prices. Each of several other manufacturers, under such conditions, is inevitably in about the same frame of mind, having reached the same conclusion or being rapidly driven to it.

If, under such conditions, a particular manufacturer advances his prices, each of the others may or may not advance his. If the manufacturer advancing his prices controls only a comparatively small available supply, that will not in itself materially diminish the competition at the former prices and his advance may represent in substance simply an individual cry of distress and not affect the market. If, on the other hand, the manufacturer advancing his prices controls a large supply, the competition at the former prices will be diminished pro tanto and each of several other manufacturers suffering most from the changed conditions, practically as soon as reports of that advance reach them from the market may (or may not) quote advanced prices. Whether or not any manufacturer does so and the number who do so depends upon the pressure of advancing costs on each. If there is acute pressure of costs against the knowledge that the advance means loss of business to competitors unless and until their prices are similarly advanced, each of a large number of manufacturers may promptly try this avenue of relief, at the expense of a lot of immediate business going to others at the lower [fol. 59½] prices. At this stage of the movement there may be perhaps a half of the production out of the market at the old prices, and the other companies still selling at the old prices get the business. With some companies quoting at advanced prices, orders to those still selling at the lower prices come with unusual rapidity so that in a short time a manufacturer may take substantially all the business he cares to take at the time in view of his production capacity. When he has done this he is likely to change his prices to the advanced prices; and as others accomplish it in differing degrees according to their own differing judgments, each is likely to advance his prices with the result that in the course of some weeks or a month the market prices of cement will have found a new level.

Whether the price movement is down or up it illustrates the independence of each manufacturer and the intensity of the competition, particularly in view of the fact that on a single day with cement of different manufacturers selling at different prices, the manufacturer selling at the lower prices may and commonly does secure orders for many thousands of barrels at the expense of his rivals selling at the higher prices.

(4) This explanation of price movements of cement from advancing costs is illustrated in the price movements since 1919. During the year from April 1st, 1919, when prices were down \$.15 and \$.10 a barrel from the Government prices, costs had not declined but advanced over the costs at the time the higher Government prices were fixed. The prices having been reduced as explained at the request of the Government and while war conditions still prevented the normal action of economic conditions, the usual competition kept them down for about a year with a very instructive exception:

[fol. 60] In December, 1919, one of the defendant companies (Edison) whose costs had advanced approximately \$.30 a barrel over its costs at the time the Government fixed the price, and whose balance between costs and receipts was accordingly from \$.40 to \$.45 per barrel below that which the Government thought reasonably discouraging, advancing its prices \$.25 a barrel above the then market price, or, in other words, \$.10 a barrel above the price formerly fixed by the Government.

The production capacity of this company is a little short of three million barrels a year. Its advance in prices, however, turned out to be significant only as an individual cry of distress. The prices of each of the other defendants remained the same, and after endeavoring to sell cement at its advanced prices for a few months, the defendant referred to was forced by the competition to come back to the market prices, \$.10 to \$.15 a barrel below the price fixed by the Government.

As interpreting this advance of its prices, and also as bearing on the accuracy of the allegations in the Petition of the "enormous profits" of these defendants, it may be noted that the operations of this defendant for the year showed a loss of upward of a half a million dollars.

(5) By the first of March, 1920, costs had largely advanced—on the average of about thirty cents a barrel over 1918.

On March 6th, 1920, another of the defendant corporations (Bath), whose costs had advanced from \$1.29, average per barrel for March, 1918, to \$2.09, average cost per barrel for March, 1920, and who was realizing at the market prices an average of about \$1.70 per barrel in March, 1920, advanced its prices \$.20 above the then [fol. 60½] market prices. This particular defendant has a production capacity somewhat in excess of one million barrels per year. It continued these prices for four months, during which sundry changes were made in the prices of each of the other defendants as hereinafter explained.

Two days later a third defendant (Allentown) changed its prices so as to make them all f. o. b. its mill, which meant higher prices or discontinuing competition at all delivery points freightwise nearer other producing points. The annual capacity of this defendant is just short of one million barrels.

On April 3rd, 1920, a fourth defendant (Dexter) having about the same capacity, adopted the course of the defendant last mentioned.

On April 6th, 1920, a fifth defendant (Alpha) having an annual production capacity of upwards of five million barrels (who in January and February, 1920, had advanced its prices in certain parts of the territory on four separate occasions) advanced its prices so that they became in a large part of the territory \$.05 above the former Government price and the same as the prices which the second defendant mentioned had put into effect for its cement on March 6th, a month before.

On April 6th, 1920, a sixth defendant (Pennsylvania), having a

capacity of two million barrels, advanced its prices \$.25 above the previous market or \$.05 more than the fifth defendant last mentioned. On the same day a seventh defendant (Phoenix), having a production capacity of about three-quarters of a million barrels, advanced its prices \$.20 per barrel.

As a result of these individual changes, by April 6th, 1920, upwards of twelve million barrels of production capacity had gone out [fol. 61] of the market at the old prices and nearly three million more had by higher quotations given unmistakable evidence of the pressure of advancing costs. Moreover the inability of the railroads to supply cars kept most of the supply from the markets. As reports of the developments on April 6th, 1920, reached other manufacturers from the market that day each independently acted in the way hereinafter defined:—

On April 7th, 1920, the next day, each of five additional defendants (Giant, Lehigh, Nazareth, Penn-Allen, Vulcanite) advanced its prices \$.20 and one of those which had previously made a limited advance by making all its prices f. o. b. its mill plus freight to the delivery point (Dexter), continuing that, advanced its prices \$.20. The situation was on that day accordingly this:—Nine of the defendant companies were offering cement \$.20 above the market prices of the past year, one was offering cement at \$.25 above those prices, and the remaining nine were selling their cement at the old market prices.

On April 8th, 1920, each of three other defendants (Atlas, Edison, Security) advanced its prices \$.20, and another (Allentown) which had previously made advanced prices by selling only f. o. b. its mill plus freight, discontinued that and made the \$.20 advance in its prices.

On April 9th, 1920, another defendant (Coplay) made an advance in its prices but of only \$.10, so that it was selling \$.10 below some and \$.10 above others. On that day there were accordingly something more than four different levels of prices among the different defendants, some still selling at the old market price, others offering their cement at respectively \$.10, \$.20 and \$.25 per barrel above that, with additional differences resulting from the different treatment of the freight and different parts of the territory.

[fol. 61½] On April 10th, 1920, a defendant (Lawrence) which had continued to sell at the old price, advanced its prices \$.20.

Op April 13th, 1920, another defendant (Knickerbocker) advanced its prices \$.20.

On April 26th, 1920, the defendant (Coplay), which had previously advanced its prices \$.10, advanced them \$.10 more.

On May 3rd, 1920, another defendant (Hercules) advanced its prices \$.20, and the defendant which had previously advanced its prices \$.25 reduced them \$.05. Accordingly on that date the price movement (which had been commenced two months before and gained real momentum a month before) was finally completed.

The foregoing illustrates how when the pressure of general costs becomes great enough (and other conditions permit), the prices of cement advance and how the advance, in fact, takes place in a way

which is inconsistent with, and contradicts any conceivable "scheme" or "combination or conspiracy" and in accordance with the normal workings of economic laws under intensely competitive conditions.

(5) When by May 3rd, 1920, prices had found this level, no further movement occurred for about a month. The average cost per barrel of cement manufactured by the defendant corporations in April, 1918, was \$1.287. In April, 1920, the average cost per barrel of the defendants was \$1.612. Costs had thus advanced \$.327 in the two years while the advance of \$.20 a barrel in market prices during the month of April, 1920, brought market prices only \$.05 above the Government price of 1918. That presumably would have resulted in an advance but the operation of the usual economic laws [fol. 62] were, at this stage, interfered with by an additional economic condition wholly beyond the control of any or all of these defendants:—

A number of factors operated to create an unusual demand for cement early in the year 1920 and, coincident with that, adequate shipments by these defendant corporations and other manufacturers became impossible on account of ramifications of the failure of transportation facilities in an industry peculiarly dependent thereon. On account of the inability of the railroads to deliver freight, many cement manufacturers could not make enough cement because they could not obtain deliveries of the necessary coal, limestone and other necessary materials and supplies; many could not pack it because they could not get deliveries of their bags awaiting return or new bags; no one could get enough cars to make the proper deliveries of the cement he had on hand, ready and anxious to ship.

Many of the defendant corporations were thousands of cars behind in their shipments. In May, as one cement manufacturer, not a party to this suit, testified before the Calder Committee of the United States Senate on Reconstruction, one company was about 6,100 cars (over 1,000,000 barrels) behind, the oldest order dating from January, as a result of the acute car shortage. These defendant corporations and other manufacturers of cement made every effort to meet this condition, even resorting to such expedients as taking the risks of shipments in open cars, employing trucks where available, and the like.

On account of this extraordinary condition, which largely controlled the situation, the details of the movement of the prices of these defendants, which were numerous and various (in some instances differing from each other as much as \$1 a barrel on the same day) between May and December are not recited. By the close of 1920, costs had mounted and were still mounting but the conditions of transportation had developed so as to permit fuller operation of the usual competitive conditions, and prices were ready to feel again more fully the force of that competition.

(6) The rapidity with which the competition brings prices down, compared with the slowness with which it permits cost pressure to force an advance, in this portion of the industry, is illustrated by the

next movement. On December 1st, 1920, one company with very large production capacity reduced its prices \$.20 per barrel. When reports of that reduction reached the other defendants from the markets, and on the following day, eleven of the other defendants each met the reduction; the next day three more, and the balance in the next two days, with the exception of two who were in exceptional condition, which did not warrant any quotations.

(7) The remaining general price movement prior to the filing of the Petition, occurred at the end of January, 1921, and illustrates in the same way the intensity of the competition and the fact that no manufacturer can sell cement above the prices at which a sufficient supply is offered, and the rapidity with which prices accordingly decline. On January 25th, 1921, one of the defendants, with large production capacity, quoted prices \$.30 per barrel below the then market. When news of this reached the other defendants from the market, and on the next day, each of twelve other defendants met [fol. 63] the reduction, and on the following day each of all the rest, with one exception, which got out of its new quotations the day following.

The result of the price movements during the two years and a half since the relinquishment of Government control is that the market prices of cement when the Petition was filed were \$.10 a barrel above the price fixed by the Government in 1918 in a portion of the territory served by these defendants and \$.10 below the price fixed by the Government at other places in the territory.

The Government, in 1918, fixed the price to it at \$1.75 Lehigh and \$1.85 Hudson (arranging it so that the manufacturer would realize the full amount) and the commercial prices recognized at the same time were \$1.90 Lehigh and \$2 Hudson. These prices were fixed after a full examination and analysis of all the facts including costs and were made low to discourage production (supra, p. 52).

The average price realized by these defendants in 1919 was \$1.652 per barrel, materially less than the price fixed by the Government at a time when the average cost per barrel was \$.057 less.

The average cost per barrel of these defendants in 1920 was \$1.779, which is \$.387 more than the average cost per barrel in 1918. The average price realized by these defendants in 1920 was \$1.929. That is less than three cents more per barrel than the price recognized by the Government in 1918, notwithstanding an advance of more than thirty-eight cents a barrel in cost.

Since 1920 prices have materially declined—at the time this Answer is written a total of about fifty-five cents a barrel in 1921. [fol. 63½] The comparison in the Petition between the price of cement fixed for the manufacturer by the Government in 1918 and a price of \$8.00 a barrel “near the close of the year 1920” at which the product is alleged to have retailed “in some instances” is unfair and erroneous in the following, among other particulars:

(1) The defendant corporations could not lawfully or in fact, and have not sought to, control the resale prices. None of them ever asked or received prices even approaching \$8.00 per barrel. The prices in fact received by them in 1920 averaged only \$1.929 per barrel.

(2) The retail price of \$8 per barrel recited in the Petition as occurring "in some instances" does not represent the retail prices prevailing generally at the time. The retail price comprises (in addition to the manufacturer's price) freight, bags (repaid when the bags are returned), the retailer's costs for hauling the cement from the railroad, storing, hauling to the job, carrying credit risks, etc., and the retailer's profit. "Near the close of the year 1920" the freight from the nearest mill to important delivery points amounted "in some instances" to upwards of \$1 per barrel; bags were costing upward of 25 cents each and selling for 25 cents, or \$1 per barrel; and retailers' costs had presumably advanced as all other costs for causes wholly beyond the control of these defendants. There had been, moreover, a failure of transportation facilities and car shortage so acute that the defendants with cement on hand which they had sold and were ready and anxious to deliver, were unable to get it to purchasers in sufficient quantities, notwithstanding the fact that they resorted to shipments in open cars, by truck and [fol. 64] all other available expedients, with the result that, in some places, there was an acute temporary shortage of cement, and any one having cement on hand there could sell it at practically any price. These facts presumably account for the exceptional retail prices alleged as occurring "in some instances."

[fol. 64½]

V

The Alleged Combination and Conspiracy

The defendants deny that they, or any of them, from the date each became affiliated with the National Association, organized in 1902, or from the date of the organization of the defendant, Eastern Association, in January, 1916, or at any time or at all, either (1) combined or conspired to adopt the ways or means in said Petition stated, or any other ways or means, with the intent of restraining or which had the effect of restraining interstate trade and commerce in Portland cement, or with the intent of accomplishing or continuing, or which had the effect of accomplishing or continuing, the results in said Petition set forth, or (2) by virtue of or through membership in or connection with said Associations, or participation in the activities of said Association, or ways or means in said Petition set forth, or otherwise, have knowingly or at all engaged in, or are now engaged in, any combination or conspiracy in restraint of interstate trade or commerce in Portland cement in violation of any section of any Act of Congress, or at all.

[fol. 65]

VI

The Alleged Means

These defendants deny that any combination or conspiracy has been brought about or accomplished, and, fully answering the allegations of the Petition as to the means, say:

1. Activities of the National Association

Defendants admit that defendant corporations are members of the so-called National Association; that through representatives certain of them participated in its organization; that each assists in its maintenance by the payment of annual dues based upon the number of barrels of Portland cement shipped by it during the preceding year; that each makes certain reports to said Association and receives certain reports from said Association; that each is privileged to and often does attend the meetings of said Association; and that in so far as membership involves responsibility for acts of an association, each of the defendant corporations is responsible for the acts of said Association.

The description of the activities of said Association in the Petition is not a correct representation thereof, and accordingly denied. In the Petition all the dominant, substantial and important activities of said Association are ignored, and remarks of individual members made in the early days and upwards of ten years ago (not representing any action of the Association or affecting the conduct of any of these defendants), a general study of the sales end of the business made some years ago, certain reports and a cost accounting system, [fol. 65½] are singled out as representing the activities of the National Association. These are, in fact, merely separate incidents of comparatively trifling importance. The substantial activity, purpose and result is thus explained:

The Portland cement industry produces a standard product, the uses of which have not yet been fully developed, sold in competition with other construction materials. Cement is practically never used alone, but always as only one ingredient in a conereted whole, the character of which depends also upon the other ingredients and the knowledge and skill with which they are selected, proportioned, manipulated and used. The demand for cement depends less upon the fixed quality of the cement itself (with the production of which the individual manufacturer is concerned) than upon the character of the conereted whole, the concrete comprising cement, sand, stone, iron, etc., and the structures made therefrom (which the individual manufacturer cannot control). For instance, in the case of roads, the use of cement has depended upon the development of knowledge as to how the concrete should be made and used and upon the intelligent practice of such knowledge, and not upon the quality of cement alone; and the competition between concrete roads and the many roads of different materials has been and is extremely vigorous.

The individual cement manufacturer cannot, as a practical matter, undertake successfully the education of the general public as to the innumerable purposes for which cement may be advantageously em-

ployed. Neither can he undertake the elaborate and expensive research work involved in developing new uses for cement, or improving the technique of handling cement in relation to each of its varied uses, or in protecting the reputation of cement as a building material by investigating the causes of any defects which may have developed in important structures due to faulty workmanship. The operations and activities of each cement mill or district have been and are completely separated from many of the others by the limitation imposed upon the radius of shipment by cost of transportation. The margin of profit of each manufacturer (with immaterial exceptions, resulting from peculiar freight or cost advantages of a few mills) has been and is too small for individual development of new uses or research work or the like. Existing means for introduction and popularization have been and are ill-suited to the needs of the individual manufacturer by reason of disproportionate territorial distribution and the commercial identity of the product. For example if one of these defendants with its mill in the Lehigh District should attempt to address the public through a popular magazine most of the circulation and cost could not benefit it and all would benefit other manufacturers of the product without cost to them.

For a multiplicity of such reasons, it has been increasingly apparent for twenty years or more that the continued development of the Portland cement industry in competition with its rivals (substantially all of whom are organized into some sort of associations to promote the use of their products) depends upon maintaining an organization devoted to developing and promoting the uses of cement and the concrete and structures made therefrom and representing the industry as a whole as distinguished from any individual interest. That is, and has been, the chief and almost the sole function of the Portland Cement Association.

[fol. 66½] The substantial activities of the National Association and the comparatively trifling character of the matters referred to in the Petition are perhaps best shown by the record of expenditures. The funds of the Association from January, 1918, to June 30, 1921, have been expended as follows:

Expenditure of Funds of Portland Cement Association January 1,
1918 to June 30, 1921

Laboratory research to provide accurate information relative to the strength of concrete made under varying conditions and from various aggregates, to improve the technique of mixing and placing concrete, to determine the effect of various elements upon concrete and similar investigations tending to improve the quality of concrete in general—

Jan. 1 to Dec. 31, 1918.....	\$34,508.09
Jan. 1 to Dec. 31, 1919.....	45,968.13
Jan. 1 to Dec. 31, 1920.....	56,755.39
Jan. 1 to June 30, 1921.....	39,511.06

\$176,814.67

Structural Bureau—in the preparation and dissemination of literature relative to the larger class of concrete structures and affording the public a free service for securing information relative to the proper and various uses of cement—

Jan. 1 to Dec. 31, 1918.....	\$56,325.18
Jan. 1 to Dec. 31, 1919.....	35,084.65
Jan. 1 to Dec. 31, 1920.....	46,638.13
Jan. 1 to June 30, 1921.....	35,134.96

\$173,182.92

[fol. 67] Farm and Cement Products Bureau—in the preparation and dissemination of literature relative to the use of concrete in the construction of various farm structures, drain tile, pipe, sewers, lighting standards, coal pockets, concrete building block, trimstone, etc., and in answering inquiries pertaining thereto; also the employment of engineers to confer with officials and others in reference to drainage, sewage and similar problems. Lectures before farmers' institutes and other bodies relative to the adaptability of concrete for various purposes, the introduction of manual training courses in concrete in schools and colleges, holding short course in concrete for instructors and in concrete block building construction for contractors, etc. Assisting cement dealers by suggesting methods of directing public attention to the uses and advantages of Portland cement, issuing pamphlets relative to the proper methods of placing and protecting concrete in cold weather—

Jan. 1 to Dec. 31, 1918.....	\$80,496.27
Jan. 1 to Dec. 31, 1919.....	77,561.22
Jan. 1 to Dec. 31, 1920.....	90,793.77
Jan. 1 to June 30, 1921.....	61,975.83

\$310,827.09

Advertising and Publications Bureau—in advertising in a general way the advantages of concrete construction through national advertising media and local newspapers and in the editing and preparation of text for booklets, magazines, etc.—

[fol. 67½] Jan. 1 to Dec. 31, 1918..	\$132,925.44
Jan. 1 to Dec. 31, 1919.....	144,725.96
Jan. 1 to Dec. 31, 1920.....	86,797.97
Jan. 1 to June 30, 1921.....	99,308.82

\$463,758.19

Highways Bureau—in compiling statistics of pavements awarded and constructed and data on funds appropriated for improvement of highways by counties, states and federal aid, assisting in the preparation of highway laws, distributing information as to latest methods of concrete street and highway construction and acting in a general advisory capacity for district offices on subjects pertaining to concrete road, street and alley construction—

Jan. 1 to Dec. 31, 1918.....	\$32,479.36	
Jan. 1 to Dec. 31, 1919.....	34,629.81	
Jan. 1 to Dec. 31, 1920.....	40,547.95	
Jan. 1 to June 30, 1921.....	23,582.28	
	<hr/>	\$131,239.40

Administration—for general supervision of all work of Association, including collection and disbursement of funds, purchase of supplies, etc.—

Jan. 1 to Dec. 31, 1918.....	\$29,127.39	
Jan. 1 to Dec. 31, 1919.....	54,151.03	
Jan. 1 to Dec. 31, 1920.....	51,863.86	
Jan. 1 to June 30, 1921.....	34,255.03	
	<hr/>	\$169,397.31

[fol. 68] Meetings of Association members usually held in the Spring, Fall and in December (annual) of each year—

Jan. 1 to Dec. 31, 1918.....	\$10,434.24	
Jan. 1 to Dec. 31, 1919.....	10,938.79	
Jan. 1 to Dec. 31, 1920.....	12,422.14	
Jan. 1 to June 30, 1921.....	4,687.52	
	<hr/>	\$38,482.69

Library in maintaining complete reference files pertaining to concrete—

Jan. 1 to Dec. 31, 1918.....	\$5,286.49	
Jan. 1 to Dec. 31, 1919.....	5,654.83	
Jan. 1 to Dec. 31, 1920.....	6,097.34	
Jan. 1 to June 30, 1921.....	2,609.03	
	<hr/>	\$19,647.69

Accident Prevention work to promote the use of safety devices, educate workmen to avoid the dangers of their occupation, etc., and to compile accurate records of accidents and their causes—

Jan. 1 to Dec. 31, 1918.....	\$6,977.64	
Jan. 1 to Dec. 31, 1919.....	7,830.56	
Jan. 1 to Dec. 31, 1920.....	8,856.96	
Jan. 1 to June 30, 1921.....	5,932.07	
	<hr/>	\$29,597.23

Conservation—to eliminate waste in the process of manufacture by utilizing waste heat, cement dust, etc., and in conducting efficiency tests on fuel consumption, relative efficiency of various types of equipment, etc.—

Jan. 1 to Dec. 31, 1918.....	\$25.92
Jan. 1 to Dec. 31, 1919.....	6,017.41
Jan. 1 to Dec. 31, 1920.....	12,299.68
Jan. 1 to June 30, 1921.....	7,178.55

\$25,521.56

[fol. 68½] Uniform Cost Accounting—in devising uniform system of cost accounts and assisting members in its installation—

Jan. 1 to Dec. 31, 1918.....	\$6,751.58
Jan. 1 to Dec. 31, 1919.....	6,644.40
Jan. 1 to Dec. 31, 1920.....	3,774.23
Jan. 1 to June 30, 1921.....	1,579.16

\$18,749.37

Statistics to afford accurate information relative to the production and consumption of Portland cement in the U. S. A., building statistics, export trade in cement, etc.—

Jan. 1 to Dec. 31, 1918.....	\$4,437.77
Jan. 1 to Dec. 31, 1919.....	4,738.08
Jan. 1 to Dec. 31, 1920.....	5,637.75
Jan. 1 to June 30, 1921.....	2,702.88

\$17,516.48

Packages—in an endeavor to educate users of cement to return empty sacks promptly, distribution of placards and literature relating to proper care of sacks and method of baling for return—

Jan. 1 to Dec. 31, 1918.....	\$460.50
Jan. 1 to Dec. 31, 1919.....	334.92
Jan. 1 to Dec. 31, 1920.....	1,425.58
Jan. 1 to June 30, 1921.....	4.38

\$2,225.38

Miscellaneous—in compiling history of the cement industry and investigation of laws of various states with reference to guarantee bonds for contractors—

Jan. 1 to Dec. 31, 1920.....	\$2,598.60
Jan. 1 to June 30, 1921.....	643.87

\$3,242.47

[fol. 69] Field Work involving the employment of a force of engineers, who are attached to the 22 district offices of the Association, for the purpose of discussing with architects, engineers, contractors and others who may be concerned, the merits and proper methods of concrete construction, the maintenance of a staff of trained inspectors to see that concrete roads and pavements are properly constructed, the distribution of literature in connection with all the foregoing, and in general conducting educational campaigns relative to new and proper uses of cement—

Jan. 1 to Dec. 31, 1918.....	\$628,023.52	
Jan. 1 to Dec. 31, 1919.....	784,917.13	
Jan. 1 to Dec. 31, 1920.....	898,411.28	
Jan. 1 to June 30, 1921.....	480,270.81	
		<hr/>
		\$2,791,622.74
Total expenditures for period.....		<hr/>
		\$4,371,825.19

The activities of said Association and its general program are reviewed in the representative report of its general manager for 1920, and the address of its President at the last meeting of the Association in May, 1921, reproduced herewith (Exhibits V and VI, pp. 197 et seq.). Referring to the matters mentioned in the Petition:

Proceedings at Meetings

The defendants deny that the matters mentioned in the Petition as occurring at the meetings reflect the character of the meetings or the activities of said Association. A copy of the minutes of the last, [fol. 69½] May, 1921, a typical, meeting is reproduced herewith (Exhibit VI, p. 241). The Association holds an annual meeting and two other regular meetings each year.

The six items singled out for reference from the many volumes containing the records of these meetings during twenty years are as follows:

(a) The defendants admit that an officer of one of the cement companies, members of said Association, did say at one of the meetings of the Association that he would like to "have some sort of a gentleman's agreement that would be sacred to gentlemen," but the remark was the insignificant remark of an individual long deceased at a meeting on April 11, 1905,* which did not represent an act of the Association or affect the conduct of any one and reflected only the mentality of an individual, made plain by the sentence completing the quoted remark, to-wit: "I think we all ought to leave this building with the agreement that we will all conduct our business on sound business principles, solely and truly."

*A number of the defendant corporations did not exist at that time.

(b) The allegation that "prices were frequently and freely discussed and higher prices persistently advocated" is admitted to the following extent and otherwise denied: In the early days and more than ten years ago,* different individuals at meetings of the Association from time to time complained of the low prices that have always prevailed in the industry, and expressed their personal desires and hopes for better prices, substantially as illustrated by the incident referred to in the Petition, which was, in substance, that one gentleman from the West referred to a saying that the price of cement, the demand for which is largely seasonal, "should go up and [fol. 70] down with the grass," to which a gentleman from the East said, "I think the grass is green and the men who make the prices are likewise green," and there was some laughter.

During the past ten years there has been no mention of prices except on a few occasions when some entirely abstract observations concerning general price movement have been made by individuals.

(c) (e) Similarly in the early days, and more than ten years ago, individuals at the meetings of the Association referred to curtailment of production and withholding from the market as desirable remedies for the distressing conditions under which cement manufacturers were working. The defendants deny that during the last ten years any member of said Association has advocated or discussed the curtailment of production or withholding cement from the market, and deny that at any time have they or any of them followed any course in that regard, other than to make all the cement that they could make and sell.

(d) The forms of reports made to and issued by the Association and how they could be utilized, have been discussed. The great bulk of the reports issued by the Association are the result of research work and studies of experts, giving the most advanced scientific thought and improvements concerning cement, its manufacture and uses, which have represented a vast amount of expenditure of time and money, and have exercised an incalculably great influence on the development of the Portland cement industry in the United States. Other reports relate to such subjects as accident prevention and industrial insurance, conservation, fire insurance and the other matters [fol. 70½] of general interest to the industry as a whole. For instance, every accident of any kind occurring to any employee of any member is reported to the Association and by it to all members with recommendations of safeguards to prevent such accidents in the future and this work has resulted in materially lessening accidents and injuries to employees in the industry.

There has also been issued each month a report giving the building permit values of various cities, typifying the condition of building construction, with comparative figures for the preceding year. There has also been issued a monthly report showing the total shipments of cement into each state, with comparative figures for previous years, and there have been issued monthly statements, showing the production, shipments and stocks.

*A number of the defendant corporations did not exist at that time.

There has been, from time to time, some discussion of all these various kinds of reports, but there has been nothing in the nature of any agreement or understanding of any kind in connection with any of them or otherwise.

(f) The desirability of a cost accounting system adapted to the use of the manufacturer of Portland cement was referred to at some of the meetings of the Association many years ago, but the matter first took definite form after the Federal Trade Commission had strongly endorsed the desirability of uniform cost accounting systems in industries and advocated it through an address to the Portland Cement Association by its then Chairman, Edward N. Hurley, at its meeting in May, 1916. A committee of the Association thereafter outlined a form of accounting which it thought would most accurately reflect the actual cost. After a draft had been completed the accountants of the Federal Trade Commission examined it with representatives of the Association and made a few minor changes, which were adopted [fol. 71] by the Committee. The Federal Trade Commission then urged the adoption of the system, saying:

"It adoption and use by members of your Association would segregate and group the items of cost as required by the Government and expedite reporting of such costs to the Government by cement manufacturers."

The proposed system prepared by the Committee was endorsed and recommended by the Association for general adoption on January 1, 1918. Any manufacturer may or may not adopt it or another system of cost accounting, or none at all, as he chooses. The cost accounting system recommended by the Portland Cement Association has been adopted in substance by only 4 out of 19 defendant corporations.

A fifth defendant adopted its own system in 1913 and has continued to use it with additional forms of cost analysis borrowed from recommendations of the Association.

A sixth adopted the recommended system as basis for a system which it was developing, modified it later to meet particular requirements more closely, and then discontinued it entirely.

In correspondence with the Chamber of Commerce of the United States in July and August, 1921, the Federal Trade Commission again expressed itself as "in favor of the study and development of uniform cost accounting by trade associations, or otherwise," saying of such acts as are in fact here involved, "there is evidently nothing illegal in such a practice."

[fol. 71½]

Trade Practices

Defendants admit that in September, 1915, a committee of the so-called National Association, made a study of the various methods or practices found to exist in the selling end of the business and reported to the Association, which adopted the report, not as binding

anyone but as having its approval as worthy of submission to each member for such favorable consideration as he, with his complete freedom of action, might choose to give it. The report explained more or less fully the advantages and disadvantages of certain methods prevailing more or less generally in the industry. As stated at the beginning of the report:

"Since the May meeting the Trade Conditions Committee has undertaken a careful investigation and study of conditions surrounding and affecting the sale and delivery of cement, in an effort to reach a conclusion as to what constitutes the best practice in each material and important particular, so as to be able to recommend definite practices which will most satisfactorily fit conditions, protect and serve the interest of the manufacturer, and at the same time operate in perfect fairness to cement user and dealer."

In 1916 the report, with some modifications, was reprinted, the introduction thereto stating:

"In the opinion of the committees, the practices which they recommend are based upon sound business principles. Their recommendations are offered as ideal for the industry, and ought to be followed so generally as to become customs of the business. * * * [fol. 72] Of course, no member of the Association is in any way obligated by the reports, or because of the adoption of the reports by the Association, to follow the recommendations. It is not at all a matter of mutual agreement, but solely a question as to whether the recommendations appeal to each member of the Association severally as the best thing for him and all concerned."

In 1918 the report was again printed with the introductory statements just quoted and again in January, 1919. The committee has had no meeting and the subject has not been considered by the Association since 1918.

This study or report was distributed to the members of the Association, each of which was entirely free, and understood to be entirely free, to do precisely as it might choose in any and all matters to which it referred.

Accordingly, these defendants admit the substance of the allegations of the Petition concerning the reports and the subjects to which they relate. But they deny that the practices have been generally adopted and observed throughout the industry, and especially by defendant corporations, or greatly, or at all, facilitated the accomplishment of any unlawful combination or conspiracy, and say that the facts concerning each, so far as these defendants are concerned, are as follows:

(1) The report defined a dealer as follows: "A dealer is a person, firm or corporation regularly engaged in selling Portland cement and other merchandise, especially building materials, purchased by him for resale; who is also properly equipped with storage facilities; supplied with teams or trucks, and is recognized in his home town as a building material dealer."

The dealer is of exceptional importance in the industry. The commodity must be taken from the railroad at the delivery point, [fol. 72 $\frac{1}{2}$] protected from the weather until used and delivered where used. That involves employees, warehouses and trucks at the delivery point. The manufacturer cannot maintain such an establishment at each of the thousands of delivery points, to take care of his occasional shipments. Much cement is used in small lots of a bag or a few bags, individually too small for the manufacturer's attention or shipment and requiring aggregating and carrying. One conducting an established business with warehouses, trucks, etc., represents better credit than the occasional, unknown purchaser; and the dealer takes the credit risks. Cement is usually purchased as incidental to the purchase of other materials from dealers; and most of the demand for cement comes through dealers. Moreover, the dealer exerts an important influence in promoting the demand for alternative materials, by his local advertising, recommendations, and otherwise. For these and other reasons, the dealer is entitled to compensation for valuable services and in a position to command it.

That compensation usually takes the form of selling dealers at a lower price than consumers, as is common in many industries. As is also common, each manufacturer is at times confronted by the question whether a particular purchaser asking the dealer's price is entitled to it. The definition is simply a suggestion of the principles by which a manufacturer may, if he wants to, justly distinguish those fairly entitled to the dealer's compensation or price from other purchasers. There is not, and has never been, any agreement to make any distinction or to follow the definition.

(2) A consumer was defined as substantially every one not a dealer.

[fol. 73] None of these defendants has fully followed this sharply drawn division. Generally each has quoted its dealers' prices only to dealers since long before the report, but practically all still make some exceptions.

(3) The report referred to the fact that to "secure the active and energetic assistance of the dealer in pushing the use of cement in competition with other materials, it is necessary that the business be so handled that the dealer will get a margin of profit which is satisfactory to him and will compensate him for his work" and said "unless this is done he will lose interest in cement and discourage its use in favor of other materials." The discussion of this subject contains the sentence, "One of the surest ways to accomplish this is to help dealers to inform themselves on the cost of doing business, a result of which will be to discourage them from selling cement for carload delivery on a smaller margin than 10 cents per barrel." There was no other suggestion that dealers be discouraged in making sales of cement in carload lots at smaller margin of profit than 10 cents per barrel.

None of these defendants has ever made any effort to discourage

dealers from making sales of cement in carload lots at a smaller margin of profit than 10 cents per barrel, except as follows: Each of two or three of the 19 defendant corporations occasionally, when dealers have complained that the margin of profit on sales of cement was so small that they felt it did not pay them to handle it, have told them that they were foolish to sell cement at a price at which they could not make a profit, and one of the defendant companies has used as a sales argument the statement that it quotes contractors at a higher figure than dealers as a means of co-operation with its [fol. 73½] dealers, and hopes to have its dealers receive the full benefit of this co-operation.

(4) The report suggested that to accomplish the object of a cash discount, that discount should not be allowed unless the remittances were mailed as shown by the postmark within the period of ten days from date of invoice. All of the 19 defendants, with perhaps one or two exceptions, make exceptions to this, which, in general, represents merely the practice always prevailing in business of allowing a cash discount when payment is made within the time specified therefor and not otherwise. The report has not changed the practice of any of the defendant corporations in this particular.

(5) The report suggested that the payment of commissions to dealers on sales made directly to consumers be discontinued, explaining that when the dealer performed no service, such payments were economically unjustifiable, and in the opinions of counsel, quoted at length, might violate the Clayton Act. Among the 19 defendants there is great diversity of practice in this particular. Some deem it good business to pay the commission for credit reasons, since the dealers with whom they make such arrangements are of known responsibility; others of the defendants have been paid such commissions; still others sometimes do and sometimes do not. The report has not changed the practice of any of the defendant companies in this particular.

(6) The report advised against making quotations to dealers for delivery at points other than their home towns, where they are not engaged in business, unless there should be no dealers in such towns, for the sensible business reason that such a practice enabled dealers [fol. 74] to sell cement f. o. b. towns in which they had no regular dealings and created dissatisfaction among the manufacturer's dealers in such towns. Of the 19 defendants, nearly all have disregarded the advice where they have no dealer in the town where the cement is to be used, some treat each case individually, making or declining to make the sale according to whether or not friction and severance of relation with their regular dealers is likely to result. The practice is not at all uniform and none of the defendant corporations has changed its practice in this respect on account of said report.

(7) Said report suggested a form of contract for use by dealers in connection with specific work contracts and urged that its use

be insisted upon. Of the 19 defendant corporations, only one requires such a contract. Most of them entirely ignore the practice; two or three recommend to their dealers that they enter into such contracts with their customers, and provide forms, because in the absence of such a contract disputes are apt to arise which eventually come back to the manufacturer. There has been no change in the practice of any of the defendants in this regard on account of said report.

(8) Said report suggested that dealers be required to make monthly reports of deliveries on specific work contracts in order that the misuse of cement by dealers may be eliminated and provided a form for that purpose. The misuse referred to is hereinafter fully explained in connection with the matter of contracts for "specific jobs" (pp. 104-8). Of 19 defendant corporations only four have required such reports, and these have not done so generally but only in particular exceptional cases, governed by exceptional circumstances. There has been no change in the practice of any of the defendants in this particular on account of said report.

(9) Said report defined a blanket contract as a contract covering unknown and uncertain requirements of dealers, contractors or consumers for future delivery; explained how such contracts were unfair to the manufacturer, dealer, contractor and consumer; and said that they could not be too strongly condemned. Of the 19 defendant corporations some have refused to make such contracts from a date long prior to said report; others still make them in exceptional cases; a considerable number make them with industrial concerns. Since such contracts represent dealing in futures and are in effect gambling contracts wherein the manufacturer takes all the risk of loss and cannot win, they are, in general, avoided by each manufacturer. This subject is more fully considered hereinafter (p. 101) in connection with "specific job contracts."

(10) Said report recommended a form of salesman's order blanks, pointing out that a definite written order signed by the customer, who would retain a copy, tended to prevent disputes and claims based on alleged oral statements of salesmen. Of the 19 defendant corporations, practically all used such order blanks prior to the said report; two or three do not largely use order blanks, but provide their salesmen with full contract forms. The order blanks used by the defendant corporations are not uniform.

(11) Said report pointed out that "all quotations represent potential but indefinite and uncertain obligations of the cement company," and that "under the plan of sending broadcast, at every price change, thousands of unasked quotations, the potential obligations [fol. 75] of each company, provided they are for acceptance within five, ten or thirty days or until cancelled, or for thirty day shipments or for amounts greater than one car each, reach very high figures," and it said, "It is obvious, therefore, that in order to keep the situation more nearly in the control of the cement company,

all trade quotations should be for immediate acceptance, 15 day shipment, and for not more than one carload each." The making of quotations for immediate acceptance, fifteen day shipments, in the formal quotations sent out is practiced by most of these defendant corporations. Some of them have been making formal quotations in that form since a date long prior to the report; a few do not send out quotations in that form, but sent out quotations effective until the customer is advised to the contrary. Most of the defendant corporations disregard the limitations if and when orders are received, using the limitation only as insurance against finding themselves unwittingly obligated to deliver more than they can, which might result from having an unlimited number of offers of unlimited quantities outstanding. The limitation on amount mentioned in the formal quotation of many of the defendant corporations for that purpose has practically never been enforced by any of them.

(12) Said report pointed out that if the manufacturer permitted extensions of the time of delivery, as a general practice, it would operate in effect to turn the contracts into options, and therefore, advised against granting extensions. None of the defendant corporations have any uniform practice as to granting extensions of time of delivery. All of them have always judged each case on its merits granting extensions when the circumstances rendered that [fol. 75½] course fair, or where the request has been made for some good reason and arranging the matter with the purchaser so as to preserve his good will.

(13) Said report suggested that dealers be required to state in their bids the brand of cement they proposed to furnish. None of the defendant corporations has ever required this.

(14) Said report defined specific work as "a definable piece of construction work requiring a carload or more of cement for delivery over a specified period of time beyond fifteen days."

(15) Said report suggested that quotations for specific work should be for acceptance within not more than five days, when the prospective purchaser is in position to buy immediately and for acceptance within not more than fifteen days, when the prospective purchaser is not in a position to buy immediately, discussing the effect of indefinite periods upon manufacturer, dealer and contractor. This limitation upon quotations is used in the quotation forms of most of the defendant corporations. Some used it before the publication of said report; a few do not use it; practically all disregard it by renewing the quotations or accepting the order, the only purpose being to insure the manufacturer against unintended over-commitment.

(16) The said report suggested that specific work sales contracts should accurately describe the work as to location, correct name of the owner, contractor or other party doing the work and presented

a form. Of the 19 defendant corporations practically all require in a specific work contract, sufficient information to identify the [fol. 76] work. This practice in the cement industry goes back at least more than forty years, having been practiced in the days of natural cement before Portland cement displaced it. No change can be found in the practice of defendant corporations in this regard on account of said report.

(17.) Said report suggested desirable conditions of sales to cement products plants, industrial plants, railroads, electric lines, state, county and municipal governments, considering particularly the effect of direct sales of yearly requirements on local dealers in case of changed conditions before the termination of the year. It recommended that sales be limited to delivery within fifteen days from the date of order, or that sales be for specific work with a maximum amount limitation (see p. 104).

Of the 19 defendant corporations only one has followed the practice recommended in the report.

(18.) Said report suggested that when a manufacturer's quotations issued covering a change in his price, the change in price should be made effective on the date quotations are written, in order to avoid price tipping. It considered the various arguments in favor of giving advance warning of a change in price, and pointed out that they were theoretically unsound because an advance in price can be justified only on the ground that conditions do not warrant sales at the former price, and accordingly advance notice meant sales at prices lower than conditions warranted. It further pointed out that the practice of advance notice of changes in price operated to prevent dealers and contractors from placing orders until the cement was immediately needed and fostered speculation.

[fol. 76½] Of the nineteen defendant corporations practically all have followed this practice for upward of ten years, or since they have been in operation, the usual course being to accept all orders mailed before the customer sees the new quotation.

(19.) Said report considered the practice of guaranteeing customers against decline in price, "inherently unfair and unbusiness-like," and advised against it. The conduct of the nineteen defendant corporations in this respect has been exceedingly diverse; one has always guaranteed its contracts against decline in price, but not its current business; several never guaranteed against decline in price until the year 1919, when, under the extraordinary conditions and in the hope of stimulating building, some of the defendant companies commenced to do so, this particular development having been occasioned by one of the defendant companies offering to guarantee the price, and others being compelled to meet that competition. A few of the defendant corporations have never guaranteed the prices against decline; one adopted the policy in January, 1921, of making future shipment at its price prevailing on the day of shipment. The report has had no effect on the practice of any of the defendants in this regard.

(20) Said report recommended that no cement be sold or quoted on specifications other than those of the United States Government or the American Society for Testing Materials. It was explained that it is of the utmost importance to the industry to maintain the quality of Portland cement. Of the nineteen defendant corporations about half have since said report occasionally quoted and sold cement on other specifications.

[fol. 77] The facts in this regard are briefly that practically all engineers, contractors and builders require cement meeting the standard specifications and tests, but a handful of idiosyncratic purchasers have some particular idea of their own relating, for example, to the maximum amount of, say, alumina or some particular fineness for an unusual use, which standard Portland cement may meet, or meet only after some additional treatment. The standard specifications have been universally used by practically all purchasers for many years.

In view of the enormous strains to which cement is subject and the absolute necessity of having a cement which will fulfill the standard computations and formulas used by engineers with respect to strength, setting quality, weight, resistance to water, etc., it is obviously of the highest importance to the public that this standard be maintained.

(21) Said report recommended that when cement is set aside in sealed bins and tested for the exclusive use of a single customer, the extra expense of several cents a barrel thereby occasioned should be borne by the customer. The practice of the nineteen corporate defendants in this particular has been diverse. Most of them have made a charge in some instances and no charge in other instances and different charges from time to time. Early in the present year, 1921, one company announced that it would make no charge for this service, and the intense competition forced practically all the other defendants to meet this, with the result that at present there is practically no company that makes a charge for bin rental or bin tested cement.

(22) Said report recommended that under no circumstances should cement manufacturers bear commercial laboratory charges [fol. 77½] for testing cement, because every cement company guarantees its product to conform to the standard specifications and tests, and if some one wants a commercial laboratory to test the cement to satisfy him, he should bear the expense.

Of the nineteen defendant corporations none have ever in their history borne the expense of such tests with the following exceptions: Two have done so from time to time, and three have on a few rare occasions done so in order to settle a dispute concerning lots of cement.

(23) Said report suggested what was considered the best practice with respect to handling sacks, reaching the conclusion that the cloth sacks are provided solely for the cement user, and "are sold

and paid for by him on the same terms as the cement", and "it should be made the rule that only such cloth sacks as are serviceable and can be used again, be repurchased." It has always been the general practice of all the defendant corporations to take back only such sacks as can be used again after a reasonable amount of repair, and that has been the general practice in the cement industry for more than forty years. Some of the defendant corporations extend this to sacks which they can see have not been abused, but which cannot be used again because they might not stand the strain. The manner of treating the sacks differs among the different corporations. Five or six of the defendants retain title to their sacks. The rest sell them and repurchase them.

(24) Said report recommended the "free interchange of credit information among cement companies". This was said to be in the interest of reducing losses. Independently of said report the defendant corporations have done a certain limited amount of exchanging credit information through the Cement Manufacturers Protective Association as hereinafter fully explained (p. 99).

The report also recommended that cement manufacturers do not become members of any dealers' organizations. And it recommended handling cement in bulk, where the nature of the work permits, as economical in many respects, and proving most satisfactory to the contractor.

As is emphasized by the results aforesaid, the report amounted simply to an expert, technical study of various questions confronting each manufacturer of cement, which each manufacturer has agreed with or disagreed with, according to his own unrestrained will and judgment. The allegation that said report or the practices therein mentioned have facilitated the accomplishment of any unlawful combination or conspiracy is denied. And these defendants respectfully aver, upon information and belief, that if any or all of said practices had been agreed upon, as none of them has, each and all of said agreements have been entirely reasonable and for the benefit of the manufacturer, the dealer, the contractor and the public, and not an unlawful restraint of trade or commerce.

[fol. 78½] 2. Activities of the So-Called Eastern Association

The defendants admit that the individual defendants are now officers of the defendant Cement Manufacturers Protective Association, called in the Petition the Eastern Association; that defendant corporations (with the exceptions hereinabove stated, p. 22) are now members of said Association; a majority of them participated in its organization; each assists in its maintenance by the payment of annual dues based upon the number of barrels of Portland cement shipped by it during the preceding year; each makes certain reports to said Association and receives certain reports from said Association; representatives of each sometimes attend the meetings of said Association, and the members are responsible for the acts thereof.

Defendants deny that the Petition sets forth the activities of said

Association in accordance with the facts. The facts concerning said Association, its activities, objects and results and the facts necessary to enable one unfamiliar with the Portland cement industry fully to understand the same are as follows:

As stated in the Constitution, "the objects of the Association are the collection and dissemination of such accurate information as may serve to protect each manufacturer against misrepresentation, deception and imposition and enable him to conduct his business exactly as he pleases in every respect and particular, free from misdirection by false or insufficient information concerning" (a) credits; (b) contracts which have been made for the future delivery of cement; (c) freight rates for cement, and (d) statistical information as to production, stocks on hand and shipments.

[fol. 79]

(a) Credits

The credit information consists simply of a list of accounts long overdue, which the manufacturer may, if he wants to, use in connection with other information from other sources in determining what credit he shall extend to persons seeking cement. There is no influence of any kind, legal, moral or social, tending to control the conduct of the manufacturer concerning any one thus appearing as not meeting his obligations, or concerning any other information exchanged through the Association. No reference to anyone appearing in the list of accounts long overdue, or to any other part of the information, has been made at any meeting. On the contrary, it is a fundamental understanding of the Association always acted upon without exception at any meeting that any member of the Association shall at all times do exactly as he pleases with complete freedom and without comment of any kind.

This and other activities of the Association are transacted by means of printed forms, because that economizes time and labor and confines activities and even utterances strictly to the limited business of the Association. The details of the activities relating to credits are as follows:

Each member corporation, on or about the first of each month, sends in on a form having blanks for the purpose a list, giving the name of any purchaser whose account is two months or more overdue, his address, the amount of the overdue account, and the ledger balance (to aid in the interpretation of the significance of a small or large amount overdue), bills receivable, accounts in hands of attorney, and any explanation, as that the account is treated by the [fol. 79½] customer as offset by balance due for bags, or bankruptcy, or the like (Exhibit VII, p. 334).

From these forms an alphabetical list is compiled. (Form 15) of which a representative specimen page actually used is produced herewith (Exhibit VIII, p. 335). This Form 15 contains all the credit information received or sent out by the Association. From it summaries of totals are made and compared with previous periods indicating general collection conditions.

The whole purpose and effect of the activities of the Association with respect to credits, is to enable each manufacturer, if he wants to, better to judge credits and to protect himself against bad debts.

(b) Contracts

The objects and activities of the Association with respect to contracts, arise from facts and conditions more or less peculiar to the Portland cement industry. Most of the business of the manufacturer of Portland cement is what is known as "current business," that is, sales of the product to be delivered at or near the time of the contract, so that unforeseeable changes in costs and conditions are not involved. As alleged in the Petition, approximately two-thirds of the business of the defendant corporations consists of such current business. The contract activities of the Association have nothing whatever to do with such current business, but are confined entirely to the remaining fraction, constituting approximately one-third of the business:—

[fol. 80] Contracts for Future Delivery of Cement

Portland cement is largely used in the construction of works which are undertaken long prior to the time for the delivery of cement used therein. For instance, the construction of a building or reservoir or dam or subway or road or other work involving enough cement to call for a special contract, commonly begins sometime after the contract is made and extends over a considerable period, usually many months and often some years, and deliveries of cement for the work are required as the construction progresses and until it is completed.

It is and always has been common practice in the cement industry to enter into contracts, usually with dealers, to supply and deliver in instalments the cement needed in the construction of such works and to fix the price at which the cement is to be delivered at the time the contract is made, payment to be made after delivery.

The Element of Risk in Contracts for the Future Delivery of Cement

By reason of the nature of the commodity, the difficulties and risks of storage, the fact that the difference between cost and price realized affords slight interest on the amount required to manufacture and numerous other economic considerations, immediate manufacture, carrying and storage of the cement called for in contracts for future delivery is impracticable.

Since the immediate manufacture, carrying and storage of the cement is impracticable, such contracts are contracts for cement to be manufactured sometime in the future, at or near the time of [fol. 80½] delivery, and to be paid for after delivery at a price fixed long before the cost or conditions of manufacturing can be known; and accordingly all such contracts involve an important element of speculation and represent dealing in futures.

To illustrate the risk assumed in such contracts, concretely:—A contract made some time ago might call for the delivery of the cement required to construct a section of a subway which would not be completed for two or three years, say about 100,000 barrels. That contract would name a price, commonly the then prevailing market price, at the point of delivery, resulting from the complex of general costs, conditions, supply, demand, etc., at the time it was made. To simplify, one representative item of cost may be used, labor:—

The average barrel of cement throughout the United States represents almost one man-hour of labor (.938). When the contract in question was made a man-hour of such labor cost about 20 cents, but when the time for the manufacture and delivery of the cement arrived, say the spring of 1921, a man-hour of such labor had advanced to about 45 cents. Accordingly, the risk in that item alone in that contract would be upwards of \$25,000.

Similar risks are involved in all the other items of cost and conditions, fuel, supplies, repairs, salaries, taxes, etc., with the result that when the time for payment arrived, in the example, the manufacturer received a fraction of what it had actually cost him to make and deliver the cement. This extreme illustration applies in different degrees to every contract for the future delivery of cement.

[fol. 81] The Fact that Contracts for the Future Delivery of Cement are Obligations Binding on the Manufacturer, but Merely Options of the Other Party Thereto

In legal theory the cement manufacturer might, perhaps, enforce a contract for future delivery against the dealer. But in actual practice any enforcement of such a contract against the dealer has always been effectually prevented by the competition, which means that the valuable custom of that dealer would be transferred to a competitor if suit were attempted or even demand made, by the fact that in many instances to force on the dealer the cement which he could not use would be unfair and probably throw him into bankruptcy, and by the fact that the dealer could seldom respond to such judgment if obtained. Accordingly, in actual practice such contracts have for many years amounted to options, binding the manufacturer but not the dealer, and this has been so well understood that contracts have been generally and freely made on that assumption and basis and generally treated accordingly.

[fol. 81½] Those Contracts for the Future Delivery of Cement Known as "Specific Job Contracts"

Contracts for the future delivery of cement are thus, in substance and practical effect, one-sided obligations whereby the manufacturer, without receiving any actual consideration, is obligated to make and deliver a commodity at a particular price a long time

in the future, regardless of the then existing costs and conditions, and will be paid for it (after delivery) if the purchaser deems it to his advantage then to take the commodity, but not otherwise. Accordingly such contracts have never existed generally in the industry.

But contracts for future delivery of cement have always existed in the industry within certain long-recognized limitations, to wit, when the contract is not for cement to be resold or for a certain number of barrels of cement as such, but to supply the cement (or a particular portion thereof) which is to enter into the construction of a specific structure or work, commonly termed a "specific job." Such contracts to supply the cement to be used in a particular structure or "specific job contracts" are differentiated from contracts for the future delivery of cement generally by numerous considerations:—

(i) Since the contract is limited to supplying the cement actually entering into the specific work, that cement cannot be ordered out for resale and the contract cannot (except dishonestly) be made an instrumentality or means whereby the prospective purchaser speculates on the future price of cement at the manufacturer's risk.* [fol. 82] (ii) Since the cement enters into a particular identified structure, different credit considerations apply because liens on the work, and often contractor's bonds, are available to protect the manufacturer.

(iii) The risk of change of costs and conditions inherent in such contracts must be assumed by either the manufacturer or the user who holds the contract for constructing the work; and accordingly they are not like contracts for the future delivery of cement generally for resale which have no economic justification. In other words, "specific job contracts" serve a useful economic purpose and are not, like other contracts for the future delivery of cement, purely gambling contracts.

For these and other reasons, "specific job contracts" have always existed in the industry, and other contracts for future delivery have not existed, or existed to an extent always inconsiderable, and for many years, negligible.

All of this was true prior to the organization of Cement Manufacturers Protective Association, which has not in any way sought to control, or controlled, by understanding, suggestion, comment or otherwise, what any manufacturer should do with respect to making or performing any "specific job contract," or any other contract or act whatsoever.

*The courts have had occasion to hold that "specific job contracts" do not call for any cement except that required for use in the specific work, in the following, among other, cases: *Ferguson Const. Co. v. Helderberg Cement Co.*, 135 App. Div. (N. Y.) 494, and *Maryland Dredging, etc., Co. v. Coplay Cement Mfg. Co.*, 265 Fed. 842.

The Ignorance of Each Cement Manufacturer Concerning the Extent of His Own "Specific Job Contract" Obligations

By reason of the practice of entering into such contracts at the time the bids for the contracts to construct the work are tendered, and otherwise, no cement manufacturer alone can possibly determine [fol. 82½] the extent of his own obligations for the future delivery of cement. Such contracts often come into existence as thus illustrated: A specific piece of construction work requiring 7,000 barrels of cement is to be awarded to the lowest bidder and each of five contractors intending to bid, gets a price for the cement from a dealer, who, to cover himself, makes a contract with the cement manufacturer (and often with more than one to make sure) for the cement required in that work, usually overestimating it at say 10,000 barrels, to make sure that he has covered himself. The construction contract is awarded to one bidder. Each of several cement manufacturers is then in the position of thinking that he has sold and will be called upon to deliver say 10,000 barrels of cement on that specific job (although only 7,000 barrels from one manufacturer will be required for it) and each governs his manufacturing and selling efforts accordingly, except that in actual practice the illustration is multiplied a great many times, involving great quantities of cement.

In the industry these contracts to supply the cement for a specific work when other cement will be used in it, have for many years been known as "fake contracts" and as "duplications"; and to the extent that a "specific job contract" overestimates the amount of cement which will be needed (the extra 3,000 barrels in the illustration) it is known as "padded."

In any "specific job contract" the dealer is neither qualified nor much inclined to estimate accurately, and the manufacturer generally knows no details of the projected work, so that in fact "specific job contracts" are "padded" an average of more than 1,000 barrels on each contract, amounting to several millions of barrels of "padding" each year in the territory here involved.

[fol. 83] From circumstances thus illustrated it results that in fact nearly half of the total estimated number of barrels of cement apparently called for by these contracts for future delivery is not in fact called for by the contracts and will never be ordered out (unless dishonestly); and to that extent the manufacturer did not, and could not, know the amount of his own commitments and obligations.

If any manufacturer waited until the structure was about completed and then went to the expense of sending someone to see about the cement to be used therein, he might ascertain whether he would be called upon to deliver any of the cement for that structure. But without such delay and expense he could not alone obtain the necessary information as to his own obligations under the circumstances which exist in the industry. On the other hand, by the simple method of exchanging information as to what "specific job contracts" have been closed, the "duplications" reveal themselves and each

manufacturer is put in a position where he can measure the extent of his own obligations to a degree at least sufficient to enable him to direct his manufacturing and selling efforts far more efficiently, and, to a considerable degree, avoid the losses, shut-downs, unemployments and general misery necessarily following efforts of anyone to do business without knowing the extent of his obligations.

The Misrepresentation Prevalent in the Industry in Connection with "Specific Job Contracts"

The "specific job contracts" developed in the Portland cement industry a species of fraud more or less peculiar to that industry, for many years commonly referred to therein in its different forms as [fol. 83½] ordering under "fake contracts", "duplications" and "padded contracts".

In practical operation dealers would use such "fake contracts" to speculate in cement futures at the expense of the manufacturer by means of misrepresentation. If before the expiration of the delivery date named therein the market price advanced, they would order the cement delivered, representing it to be for use in a specific job under an old contract held by them (although, in fact, the cement for that job was being supplied by another, and the job may have been completed) and then resell such cement to the public at the then market, thus reaping a large unearned profit and inflicting serious loss on the manufacturer.

For instance, in the illustration last given, some of the dealers having "duplications," if the market price advanced say 10 cents a barrel before the expiration of the delivery date in those contracts, would order out 10,000 barrels of cement under the "duplications", thus falsely representing to the manufacturer (and, concretely, its office employees located perhaps hundreds of miles from the point of delivery) that the cement was required for that specific job under the contract, and then sell the cement to the public at the advanced price or a trifle below it, thus making for themselves unearned profits of \$1,000 each and inflicting corresponding loss upon the manufacturers, which loss must ultimately be borne by the public in subsequent prices.

Reporting "Specific Job Contracts"

The activities of the Protective Association, concerning contracts, in purpose and result, enable each manufacturer to know the extent [fol. 84] of his own obligations and and to protect himself against such frauds, if he wants to, by putting before him the actual facts concerning such "specific job contracts." To make the facts available each member of the Protective Association (with the exceptions noted, p. 22) sends to the office a statement of each "specific job contract" after it has been made and closed, sufficiently complete to enable it to be matched with others in all identifying details. These are sent to the other members (with the exceptions noted) who are thereby enabled to discover "duplications". There the ac-

tivity of the Association with respect to "duplications" ends. It supplies the information (obtainable in no other way) and the manufacturer does just as he chooses without suggestion or comment.

The papers used in this are printed forms referred to in the Petition. After each "specific job contract" has been closed and reached the manufacturer's office, he fills in a form (Form 20, p. 336) giving the contract number, the date, the name and address of the purchaser, the description of the job so complete that it can be identified, the name of the contractor, the number of barrels mentioned, the price, the delivery point and the date when the contract expires—in other words, details which enable that "specific job contract" to be fully identified and compared with others. The manufacturer also sends in (on Form 21, p. 337) any changes in "specific job contracts", as, for instance, that a particular contract has been completed, reduced in amount, extended or cancelled.

The Association office then compiles the information thus received, and sends the compilation (Form 7, p. 338) to the members, together with a summary giving the totals from the first of the month to date (Form 8, p. 339). These compilations are made and sent to the [fol. 84½] members, each day, from the reports on Forms 20 and 21 received that day. An examination of the Association's files shows that the average time from the closing of the contract by the manufacturer to sending the report of it (Form 20) to the Association's office, occupied by the process of the contract going to and through the manufacturer's office, is eight days.

At intervals of three months the Association office tabulates the "specific job contracts" in a printed report (Form 10), which is a repetition of the matter previously sent in Form 7 corrected to date* and in more convenient form for subsequent checking by the manufacturer.

The office also sends to the members a monthly summary (Form 9, p. 340) of the totals of the contracts filed since the first of the year. Thus, Forms 7, 8, 9 and 10 sent out by the Association's office are compilations of the information sent in by each manufacturer on Forms 20, 21 and 22 giving the facts concerning the "specific job contracts" in existence, separately and in totals. Representative specimens, actually used, are reproduced herewith, except Form 10 which, on account of its bulk, is not filed but will be produced in Court (Exhibits XI to XIV inclusive).

For some time after the Association commenced operations, contracts were reported only monthly, which meant, in practical operation a period of upward of six weeks before the contract information with respect to many contracts would reach the members. To shorten the period while the manufacturer's information concerning his obligations remained doubtful, and increase the value of the work, the practice of making so-called daily reports (operating an average of more than eight days after the contract was closed) was adopted.

*The corrections are verified by a monthly report (Form 22, p. 356) sent in by the manufacturer.

[fol. 85] The lists of "specific job contracts" thus compiled and sent to each member discloses the "duplications" and the manufacturer can, accordingly, know whether a contract which he has signed is a reliable contract which will call for the delivery of cement or a piece of paper upon which, as a practical matter, he cannot act and which will not require the delivery of any cement unless the dealer attempts, by misrepresentation, to take advantage of change in conditions resulting in increased costs and prices to order out the cement for resale.

The number of "duplications" and other "fake" contracts in the cement industry is remarkably large. For instance, the specimen of the monthly contract reports of the Association to be produced shows "duplications" amounting to a million and a half barrels in the one month. This condition arises partly from the fact that it is and always has been common practice in the industry to make such contracts for cement in advance of the awarding of the contract for the work in which the cement is to be used.

In most instances and unless conditions change so that there is an advance in the market price of cement at the delivery point, no cement is ordered out under such contracts and the information supplied the manufacturer simply enables him to know, in the only possible way, the extent of his own obligations and what part of his capacity is free for sale. In other instances where there is an advance in market price at the delivery point and the unscrupulous dealer orders out cement upon the representation that it is cement called for by the contract, the information enables the manufacturer to protect himself against being thus cheated.*

[fol. 85½] In no case is there any agreement, understanding or obligation, legal, moral or social, affecting the course of the manufacturer, who in fact deals with his contracts exactly as *his* pleases. There has never been at any meeting of the Association a word of comment on the act of any manufacturer concerning any of his contracts. Under its Constitution and in fact "membership in the Association shall be recognized as implying that the member is absolutely free to conduct his business exactly as he pleases in every respect and particular."

Investigating "Specific Job Contracts"

For about two years the activities of the Association with respect to contracts were limited to this reporting which revealed "duplications" of "specific job contracts." The reporting alone did not reach the similar abuse known as "padded contracts" where the dealer, entering into a "specific job contract," estimated the amount at a much larger number of barrels than the job would require and thus, in many instances, speculated on the surplus at the manufacturer's expense, ordering out that surplus on the representation that it was needed for the job under the contract and reselling to the public, in

*See cases cited, *supra*, p. 104.

the event that the price of cement advanced before the final date of delivery, and not ordering out any of the surplus if the market price had not advanced or had declined by the final date of delivery.

To deal with "padded contracts" since the close of 1917 the Association has employed a staff of engineers (numbering at different times from one to five or six) to visit works on which cement is to be supplied under "specific job contracts," to ascertain the amount of [fol. 86] cement which will be required. These engineers are sometimes called "checkers," their function being to check the estimate in the contract with the actual requirements.

Since the investigation of every piece of construction in the north-eastern portion of the United States would involve too much expense, only some jobs are visited, the selection being made by any member of the Association (who, through his salesman, dealers or otherwise finds reason for questioning the good faith or accuracy of a particular "specific job contract" as for instance, by finding that the job has been completed although the contract still calls for the delivery of more cement) sending in to the Association's office a request that the work be visited and checked. The details of this operation are as follows:

The manufacturer sends to the Association office a card (Form 1, p. 341), the allegation concerning which in the petition is inaccurate and denied, calling attention to a "specific job contract" with the reason for suggesting the investigation indicated by a check mark, as that the contract appears to be a duplication, or the amount contracted for seems more than required, or no such work appears to be under construction or contemplated, or the work has been completed, or the contract for the construction work has not been awarded the contractor, etc. The Association then delivers to one of its engineers a blank form asking certain questions concerning the work, as whether it has been started and how much cement it will require. The engineer visits the work, ascertains the facts and answers the questions (Form 2, p. 343). The Association office then presents the facts thus developed to the members whose brands appear in the report, upon Form 5, p. 345. The member receiving the information may, or may not, acknowledge it by checking on a form (Form 6, p. 350, the allegations concerning which in the petition are inaccurate and denied) whether the report accords with such information as he may have from other sources and is found correct or further investigation is desired, and if the manufacturer has additional information useful in further investigation, submitting such information. As a matter of fact the use of this Form 6 is infrequent, several of the defendant corporations never having used it. Representative specimens of all the forms mentioned, actually used, are reproduced herewith (Exhibits XV-XVIII).

In connection with these investigations and otherwise, the Association has had nothing whatever to do with the conduct of any manufacturer or member except to assist in the development of the facts as hereinabove set forth. The manufacturer does exactly as he pleases with the information before him, the activity of the Association completely ends with supplying it.

This activity of the Association has for its purpose and result only protection against blundering inefficiency, resulting from lack of knowledge of the individual manufacturer concerning what contracts he has, and what amounts to fraud. It has operated and operates to protect the manufacturer and the honest dealer. It sharpens, and does not in anyway interfere with, competition; and by increasing the efficiency of each manufacturer's operations tends to reduce the price of cement.

Its value and importance are indicated by the concrete figures of 1920. During that year the engineers of the Association investigated 46% of the "specific job contracts" reported. The total amount of cement which would enter into the works or jobs was [fol. 87] estimated in the contracts as 9,233,160 barrels. The amount in fact required to complete the works and so the amount called for by the contracts, was found to be 5,703,130 barrels—a total difference of 3,530,030 barrels, or an average difference of 1,539 barrels per contract. This knowledge freeing such an amount for the market, was of obvious value to the manufacturer, dealer, contractor and public.

The explanation of the fact that the price at which these "specific job contracts" have been closed is included in the report is thus set forth in the outline of the plan pursuant to which the Association was formed:

"The second form of misrepresentation is illustrated by the common experience of every manufacturer of Portland Cement with statements made to him not only by dealers but often by his own salesmen concerning competitors' practices, with the result that the manufacturer is deceived and imposed upon. In the following plan it is not proposed to provide the fullest relief against such misrepresentations, because reports of outstanding or active offers or quotations may be objectionable, but it is proposed to give the manufacturer an opportunity of checking the representations of dealers and salesmen by including with the information as to specific contracts, the price at which these past transactions have been closed, so that false statements may become less frequent."

This item is distinct and separable from the rest and of comparatively trifling practical importance. The reporting of it has no effect upon the price of cement or competition. The only price mentioned [fol. 87½] is the price at which the "specific job contract" has been previously closed. The price of the current business of the manufacturer, representing the bulk of the business, has not been reported in any way. Seldom less than five days, and usually more, elapses between the manufacturer's quotation and the closing of such contracts. The price of these closed transactions reaches the members on an average of upwards of eight days after the contract has been closed, which is a week or so after each member has in fact learned the price at which his competitors were selling cement on that date.

As a matter of fact, for many years, each manufacturer has at all times been promptly advised concerning the price at which cement is offered in the market by means illustrated as follows: When the price at which cement is selling at any delivery point is changed by any individual manufacturer, the new price is necessarily quoted by that manufacturer to dealers and others at that point. Within a few hours, those located at that point and representing other manufacturers learn of the offer and promptly inform the manufacturer whom they represent, often by telephone. The first report is followed by others from other points, and in the course of some hours, fully confirmed from the market, with the result that every manufacturer has, for many years, known the price at which cement is being offered and sold in any market, without any communication whatsoever with other manufacturers.

The fact that a week or so later the manufacturer receives information that a particular contract for a specific job was closed at a particular price has no effect whatever in fixing the price at which any sale is made, but has for its purpose and result only a limited check [fol. 88] on false statements. For instance, it enables the manufacturer to increase the efficiency of his sales force, and his competition, because it enables him to know whether the explanation often given for the loss of a contract, that a competitor quoted a lower price, is the true explanation, or the true explanation is the inefficiency of the salesman. This item of the contract reports is helpful to that extent, but of comparatively little importance.

(c) Freight Rates

The information concerning freight rates consists simply of a compilation of the official freight rates from each point where cement is produced in sufficient quantities to affect the market to all delivery points, that is, practically every place where cement can be delivered in the northeastern section of the United States.

The purpose and the result of this are only (1) to save each manufacturer time and expense and thus prevent a large amount of economic waste, and, (2) to prevent mistakes and errors in freight charges.

The mechanical and mental labor involved in determining the freight rate on cement to many points is remarkably great to one not familiar with such matters. To make it plain, the task involved in determining the rates to Boston, Massachusetts, are given in some detail as follows:

Boston presents a comparatively simple illustration, because the cement rates from each and every point are published as through rates and no combinations of rates are involved. In determining the rates to Boston one first refers to the Official Railway Guide and to the list of freight stations in I. C. C. No. 1427 and ascertains that Boston is situated on the Boston & Albany, Boston & Maine, and [fol. 88½] New York, New Haven & Hartford Railroads. From the same freight guides he ascertains, or knows, that his mills at, say, Omorod and West Coplay, Pennsylvania, are located on the Ironton

Railroad, his mills at Chapman, Pennsylvania, on the Philadelphia & Reading Railway; his competitor's mills at Northampton, Pa., on the Northampton & Bath Railroad; his competitor's mills at Nazareth, Pa., on the Lehigh and New England, and Delaware, Lackawanna & Western Railroads; his competitor's mills at Hudson, New York, on the Boston & Albany and New York Central Railroads; his competitor's mills at Alsen, New York, on the West Shore, etc.

To ascertain the freight rate of cement from his mills on the Ironton Railroad he first turns to tariffs published by that railroad and finds that the carrier does not publish any through rates on cement to Boston. He then consults the Official Railway Guide and ascertains that the Ironton Railroad connects with the Central Railroad of New Jersey, the Lehigh Valley Railroad and the Philadelphia & Reading Railway, and turns to the tariffs of those carriers. He finds that the Central Railroad of New Jersey publishes a commodity cement tariff, which is I. C. C. G-5, originally effective October 15th, 1918, applicable from certain stations on the Central Railroad of New Jersey, the Ironton Railroad and the Northampton & Bath Railroad to destinations on various New England lines. He then turns to page 2 of this issue and finds that the cement rates quoted apply to his mills at Omorod and West Coplay and competitive producing points on the Ironton Railroad, and also from Vulcanite, New Jersey, on the Central Railroad of New Jersey and from Nevarro (Northampton, Pa.) on the Northampton & Bath [fol. 89] Railroad. He then turns to page 3, which is an alphabetical index of stations to which the rates apply, and finds that Boston for Boston & Albany delivery is Index No. 1609. Index 1609 is found on page 28 of the Tariff and the rate quoted from the producing points above mentioned is three dollars per ton, which is applicable via route No. 4. Turning to route No. 4, found at page 32 of the Tariff, he finds that traffic will route over a number of alternative combinations of railroads and thence via the Boston & Albany Railroad to destination. He finds, however, that the three dollar rate, as shown in that Tariff has been advanced, and on turning to Supplement 3 to this Tariff, effective February 28th, 1921, he finds on page 3 that the Boston & Albany delivery, the present rate is twenty-one cents per 100 pounds which figures \$4.20 per ton. He has now found the rate from his mill via the Central Railroad of New Jersey directly, or via connections, for Boston & Albany delivery at Boston. He then refers to the Index of Destinations on page 3 of the Tariff to ascertain the facts concerning other deliveries at Boston. He there finds that rates are also quoted to Boston for Boston & Maine delivery under Index No. 1. Repeating the process just described, he finds that the rate to Boston for Boston & Maine delivery is now 21¢ per 100 pounds, or \$4.20 per ton. Again repeating the process, he finds that the rate to Boston for New York, New Haven & Hartford delivery is the same.

The result at this stage is that he has ascertained from the Central Railroad of New Jersey Tariffs that the correct freight rate to Boston from mills on the Ironton Railroad and mills served by the Central Railroad of New Jersey is 21¢ per 100 pounds. But the Ironton

Railroad also connects with the Lehigh Valley Railroad, and it is [fol. 89½] therefore necessary to refer to the Tariffs of the Lehigh Valley Railroad for rates applying from off the Ironton Railroad to destination in New England. A search of the Lehigh Valley Tariffs shows that it is I. C. C. C-7244, effective March 15th, 1921, is a special commodity Tariff applying on cement from stations on the Delaware, Lackawanna & Western, Ironton and Lehigh Valley Railroads to stations on the railroads named on page 3 of the Tariff. The process of running this down is time consuming. On page 2 of the Tariff he finds that Omorod and West Coplay, Pa., are shown as group 2 producing points and that other producing points are shown rate groups 1 to 6 inclusive. On page 3 he finds that rates to Boston & Albany destinations are quoted on page 22, and on page 22 he finds a rate of 21¢ per 100 pounds quoted from Group 2 to Boston for Boston & Albany delivery, applicable via Route 76. He then finds that Route 76 on page 89 of the Tariff makes the rates apply via the Lehigh Valley, West Shore and Boston & Albany to destination. It is then necessary to ascertain the rate from Boston & Maine delivery. From the Index he ascertains that to destinations on the Boston & Maine, the rates are shown on pages 23, 40, 41, 42 and 43. On turning to page 23 he finds that Boston & Maine Railroad destinations are not separately shown but he is referred to Lehigh Valley Class Rate Tariff, I. C. C. No. A-3741. Having found this Tariff he finds on page 11 that Boston is Index No. 494. He then turns back to page 23 of I. C. C. C-7244, commodity cement tariff, but finds no rate given from Group 2 points to destinations on the Boston & Maine. He then consults page 40 of the cement tariff and finds that for Boston & Maine destinations he is referred to another class rate tariff, Lehigh Valley I. C. C. A-3730. Having [fol. 90] found that Tariff, he finds on page 14 thereof that Boston on the Boston & Maine is indexed A-1, 1, 1-A, and 1-B. Then by turning to page 40 of the commodity cement Tariff he finds that the rate to Boston, from Group 2 points to points on Route 94 is 21¢ per 100 pounds. He then turns to Route 94 shown on page 90 and finds to Boston stations Index 1, 1-A and 1-B inclusive from Group 2 this rate applies.

An equally time consuming process is required to ascertain the rate for New Haven delivery via the Lehigh Valley. When that is completed the rate must be checked through the Philadelphia & Reading Railway connection for the various deliveries. When that has been completed he has ascertained the freight rate from two of the mills to Boston for any desired delivery at Boston.

But by reason of the competition that is only the beginning, because cement in Boston does not sell f. o. b. his mill and he must, to compete, know the freight from the freightwise nearer originating points, as hereinafter explained. This involves a repetition of the whole process with respect to each of the originating points, occupying at best a long time and admitting of errors in computation.

There are many thousand points to which the freight rates must be thus ascertained daily used. Boston represents a point where the simplest method of rate construction is available, because the rates

from the producing points published are through rates. Other rates involved intricate combinations. For example to Frankfort, Maine, on the Bangor & Aroostook Railroad no through Tariff is published by the Lehigh Valley, Philadelphia & Reading, Delaware, Lackawanna & Western or Lehigh and New England railroads from the [fol. 90½] Lehigh district, and to obtain the rate from originating points on those railroads to Frankfort, Maine, it is necessary to figure out the lowest combination of intermediate rates, then figure out combinations based on the joint rates of the five originating roads to Portland, Maine, plus the joint rates of the Maine Central and Bangor & Aroostook Railroads from Portland to destination, and then figure the combination of rates on the Bangor & Stockton Springs from each and every producing point in the Hudson and Lehigh Valley Districts.

All this work is involved in ascertaining the only freight rate which can lawfully be charged or paid. The object and result of the freight rate books of the Association is simply to eliminate the tremendous waste involved in each of these manufacturers separately performing this task and present to the manufacturer a list whereon he can see at a glance the official rate from the originating points to any delivery point. This is accomplished by working out the official rates and printing booklets wherein the delivery points are arranged alphabetically by states so that the manufacturer may see instantly that the rate to Boston from the Lehigh Valley is 82¢ a barrel; from Hudson 66¢; from Alsen, 71¢, and from Universal \$1.05, or the rate to Frankfort, Maine, from the Lehigh Valley \$1.21; from Hudson, \$1.29; from Alsen, \$1.29 and from Universal, \$1.64.

The rates so published are nothing but the only lawful rates. There is nothing affecting the freight rates themselves or anything of the kind. On the contrary the defendant corporations have, in the past, from time to time, been and are now engaged in extensive and expensive proceedings before the Interstate Commerce Commission [fol. 91] wherein some seek and others resist changes in official rates which they believe to be to their advantage or disadvantage as against each other.

(d) Statistical Information

The activities of the Association with respect to statistical information consist of each member each month sending the amount of its production of clinker, production of ground cement, shipments during the month and stocks on hand at the end; and the office compiling these and sending them out to the members.

The mechanics of this consist of a form (Form 23, p. 351) used by the manufacturer in transmitting the information to the office monthly, and a form (Form 12, p. 352) sent out by the office, giving the figures to each member.

In addition the total shipments alone during the first fifteen days of the month are sent in on Form 24, p. 353, and the summary thereof sent out on Form 14, p. 354, mentioned in the Petition.

From these forms certain summaries and charts are prepared

which show the totals and indicate the general movement in the industry. Similar summaries and charts show totals of "specific job contracts."

The remaining statistical activity of the Association, referred to in the Petition, consists of a quarterly report by the manufacturer on Form 26, p. 355, and the compilation thereof on Form 19, p. 355, sent to the members, showing the number of bags returned, the number accepted and the number rejected. Representative specimens of these forms are reproduced herewith (Exhibits XIX to XXIV).

For the last few years the competition has forced each manufacturer to put the charge and credit (which have been equal, so that [fol. 91½] the purchaser gets when he returns the bag whatever he advanced for it) at a figure below the actual cost of the bags. Accordingly, bag losses have become a matter of much importance to the manufacturer. The activity of the Association in this connection consists solely of receiving from each member quarterly a statement of the number of bags returned and the number of them found fit for use. From these, the Association compiles a report giving the figures and the percentage. That is all the Association has done or does in that connection. These figures may assist a manufacturer towards greater efficiency, because if he finds that he is losing a higher percentage than others lose, he may seek to improve that department of his business or take the matter up with the bag companies, which in some instances clean and count the bags under contract with the manufacturer. The reports are not of any considerable importance.

The statistical information exchanged through the Association has not included any information whatever concerning costs or any information whatever concerning prices, except in so far as the mention of the price at which "specific job contracts" (representing approximately a third of the business) have been previously closed, which reaches the central office several days after everyone knows the prices its competitors are charging from the market and reaches the members thereafter, may be called literally price information, although having no effect as such and devoted to another purpose.

The scope of the Association's proposed activities was submitted to the Federal Trade Commission at the beginning of 1916, with a view to ascertaining whether from some point of view different from that of any of the defendants or counsel, there might be some objection to any part of its activities. No objection was suggested. [fol. 92] The Commission does not, as these defendants are informed, formally approve anything. But in a pamphlet issued by the Commission a few months later, entitled "Fundamentals of a Cost System for Manufacturers," dated July 1, 1916, the Commission said:

"Exchange of Statistical Information Beneficial

"In the past many manufacturers disliked to give out information concerning their business. To-day the reverse is the case. Trade associations are compiling statistics as to production, shipments,

and costs for the benefit of their members, and the manufacturer instead of trying to keep this information to himself welcomes the opportunity to supply the data, knowing that his competitors are doing the same thing and that these statistics will be of benefit to himself and to his industry. The Federal Trade Commission is keenly alive to the value of this information" (p. 7).

The statistical data enables each defendant corporation to know the production, commitments, shipments and stock on hand of each of the others. The effect of that has been to intensify the competition. For example, a manufacturer looking at the report of these figures for the past month and seeing that the stocks on hand have materially decreased and that he is not increasing his production as rapidly as the others, will conclude that business is likely to be taken away from him, and give attention to increasing his production. Or if he finds that he has sold less cement than he sold in the same month of the previous years, while his competitors have sold comparatively more, he will put vigor into his sales department. The information as to where his competitors stand has in fact operated [fol. 92½] to make the race more sharply contested.

That it does not operate to distribute the business is a fact and has been demonstrated by the record hereinabove produced (*supra*, p. 6), which summarizes more detailed records showing how throughout the existence of the Association the productions and shipments have been inconsistent with any possible plan of distribution and marked by one or some of the defendants (from time to time and also generally and variously) increasing sales and shipments at the expense of their rivals, so that the record of each defendant corporation differs, at any particular time and throughout the six years as a whole, from that of any other.

Proceedings at Meetings

Defendants admit that it was originally contemplated that all proceedings of defendant Cement Manufacturers Protective Association, called in the Petition the Eastern Association, would be stenographically reported and preserved. They deny that this has not been done, and say that in fact everything said or done by the Association, or at any meeting thereof, has been taken down verbatim, promptly printed and forwarded to the Federal Trade Commission.

The defendants deny that the Petition correctly indicates the nature of the proceedings of meetings. The facts concerning the meetings of said Association are substantially as follows:

By reason of the fact that the defendant corporations, members of said Association, are competing corporations representing separate and conflicting interests and each unwilling to make any of its [fol. 93] acts in any wise dependent upon the opinion of the others, in the organization of said Association any representation of one company by another, as in a Board of Directors or Trustees or the like, was avoided, and the Association was constructed to operate after

the manner of a Town-meeting, so that each member would have in all respects an equal share and voice in everything done. The organization accordingly provides no mechanism for action except at meetings of all members, one individual being elected President and given power to preside at meetings and another, Treasurer, to hold custody of the funds.

The meetings of the Association have been and are meetings at which the business of the Association is given the necessary attention. They have nothing to do with influencing or commenting on the conduct of any member. There has been and is no mention of the specific contents of any report or the like, but the meetings consider such subjects as whether additional employees are needed, the rental of offices, the desirability of making changes in the forms of the reports or to make the work of the Association operate more quickly, and similar subjects. When no business of that kind required attention meetings were not held. There have been, for example, periods of two or three months between meetings.

The meetings are short, lasting about half an hour. Those who attend are not, in general, those who control the prices or production or conduct of the corporations. On the average a third of the corporations are not represented at all.

During the only period of rising prices since the Government relinquished war control thereof, from March, 1920, to December, 1920, for instance, the remarks cover a total of 56 pages, the number of meetings in that period being 6. There was no meeting in June, July or August, 1920. Three of the meetings were attended by credit or contract men from 11 of the member companies; two by those from 14 companies; the other by those from 13 companies.

Of these 56 pages, approximately 20 pages consist of noting attendances, the Treasurer's report, and adjournment. The other subjects mentioned were as follows:

About 6 pages in all concern a suggestion that some of the credit indemnity companies be asked to submit a dummy policy for Portland cement companies for consideration;

2 or 3 pages concern a detail of figuring dues;

3 or 4 pages concern whether the contract reports should be issued quarterly or monthly;

10 or 12 pages concern the number and salaries of different employees of the Association;

3 or 4 pages concern the time of holding meetings in view of daylight saving;

A page or so concerns a photograph of a former officer;

4 or 5 pages concerns the work of the office and the forms of summaries.

These are the only subjects mentioned during the ten months covering the only advancing price movement since the Government relinquished war control of prices.

The facts concerning, and explanation of, each of the items mentioned in the Petition are as follows:

None of them is representative. None, except the investigation of contracts, had to do with any action to be taken. All are exaggerated out of relation to the facts. They are:

[fol. 94] (a) The first item in the Petition is based upon two sentences in the opening remarks of the temporary Chairman at the organization meeting, which were as follows:

"Of course, you understand that the idea of this thing (referring to the plan, constitution and by-laws of the Association, a copy of which is annexed hereto) is co-operation, and I think it is not necessary to say any more on that point. We all agree that the necessity of co-operation is acknowledged by everybody in the industry. The only question now we have to determine is how we can best make use of co-operation."

The other remark that "one or two companies staying out might destroy all the good work the rest of us might do" was also made by an individual, at an adjournment of the organization meeting in connection with suggesting that the newly-elected officers see companies not represented. It is true that the value of the work of the Association in reporting "specific job contracts," credit information and statistics of the existing supply is in proportion to the extent to which those operating in the territory co-operate in that work. But that these remarks otherwise measure any activity, purpose or result of the Association is denied.

(b) The members of the Association were at all times scrupulously careful to avoid any action that might be considered in violation of the law, and the minutes show that members from time to time inquired of counsel, present at the meetings, whether there was any impropriety in taking up a particular subject or detail, but the allegation that the members were fearful lest their activities within the scope of the Constitution and By-laws might be considered in [fol. 94½] violation of the law, is denied. The subject of the legality of activities came up only in connection with whether a particular detail was within the scope of the Constitution, and not in connection with whether the activities of the Association within the scope of the Constitution were lawful.

The explanation of such inquiries is that the Association and its members had been advised by many counsel substantially as thus set forth in the remarks of the Chairman at the organization meeting:

"I had a conference with Mr. John G. Johnson yesterday on this, and Mr. Johnson had had the plan in his hands for two or three days, and he told me that after going over the Constitution and By-laws carefully he could see no reason why we should not adopt them and use them: that the only danger he saw in an organization of this kind was in the possibility of our doing things outside of the lines laid down here; that sometimes organizations of this kind were tempted to go beyond the lines of the original plan. I then called his attention to the fact that it was proposed to have stenographic

reports of the proceedings, and that those reports would constitute a record of our transactions, and would be subject to investigation by anybody who had any right or authority to investigate us. He said he thought that was a very good idea, and then repeated what he said before: 'As long as you work within the lines laid down there, there is no danger, and you are entitled to do everything that you have provided for in your Constitution and By-laws of that plan.' "

The remarks in the minutes inquiring concerning the propriety of different matters from time to time reflect care in keeping within the Constitution and By-laws and the law, and not apprehension [fol. 95] lest the activities covered by the constitution might be considered illegal. The basis in the minutes for the suggestion of apprehension is illustrated by the following:

At a meeting in September, 1918, one of the members said:

"I want to bring up something: I think that this is a matter that we could discuss at his meeting and which it is proper to discuss at this meeting rather than at a meeting of the War Service Committee, although it does pertain to Government regulations. It seems to me it would be a good idea for the Protective Association to serve us right now in a rather new capacity. It will be probable that all of us before we get through will find that some dealer or some user of will violate the regulations or violate the pledge, and we will have to refuse to ship. Now, I think that whenever that happens that every company ought to notify the Protective Association of that action and then I think the Protective Association ought to notify every other company that that particular party has been treated in that way so that we will all be on our guard. It would certainly be very bad if there would be a system developed there of looseness which would enable any dealer to violate their duty * * *."

"Now, can't we use the Association for that purpose?"

"The Chairman: Mr. —, if counsel were here, I could get an immediate answer to that. I do not know whether that would come under the scope of the Association or not. * * *"

"Mr. (another member): Mr. President, don't you feel that this is absolutely a matter which will be of assistance to the Government and therefore that there cannot be any legal question about our [fol. 95½] right to do it at all, and by postponing it for a month we might lose the effect of it. * * *"

The matter was finally referred to counsel.

Instances such as thus illustrated have occurred on five or six occasions in the six years of the Association.

(c) As to the activities of the Association being considered confidential and secret:

((i) Before adoption, the Constitution and By-laws were presented to the Federal Trade Commission, with the request that if anything contemplated thereby was regarded as objectionable the Association

might be advised, and without any objection being suggested. Every word said and act done (including monthly statistics, Form 12, p. 352) has been promptly forwarded to the Federal Trade Commission. The Constitution contains a provision which has been at all times fully observed as follows:

"Full and complete minutes of all matters discussed at any meeting of the Association shall be kept and such minutes, together with all records, files and correspondence of the Association, shall be preserved and held open at all times to any public official or other person who may have any legitimate reason for desiring to be completely informed concerning any or all the activities or transactions of the Association."

(ii) The allegation of the Petition to the effect that reports "were considered confidential and secret" is apparently based upon a misconstruction of remarks made at some of the meetings of the Association as follows:

It developed that in some instances the information furnished by the Association was being used by representatives of some members as a basis for efforts to take customers away from other members, salesmen occasionally using the information as a basis for their talks with dealers. The matter, which threatened to disrupt the Association, was dealt with by a committee which reported in substance:

"We find that there has been a great deal of complaint in regard to salesmen of various companies asking people who have placed orders with other companies why that order was placed with that company instead with them, and a good many of the members have felt that their relationships with their customers were made unpleasant, even jeopardized by the use of information as to what they had done. * * * We don't want anybody to understand that it is our thought or intention to indicate at all how the information shall be used, but we do feel that there is a clear-cut purpose of that information as outlined in our constitution and by-laws, and that the information should not be used for any other purpose."

No action upon the matter was taken, the opinion of the members being that misuses of the information were due to misunderstanding or carelessness and would correct themselves. That is the nearest approach to anything suggesting that the activities of the Association "were considered confidential and secret," and the allegations to that effect are accordingly denied.

(d) The subject of the discount to be allowed in the payment of invoices has been mentioned upon occasions in the six years of the existence of the Association. The allegation that the discount was "frequently discussed" is denied. The discussions were in the [fol. 96½] nature of such inquiries as whether anyone considered that a note given within the time limited for cash payment represented cash payment and what was paid in cash when a regular

customer paid the general average of his account each month. As some of the first meetings of the Association during the year 1916, before its objects and activities were fully understood by some of the credit men delegated to attend the meetings, there were occasional requests for the experience of other credit men on the subject of what was properly cash payment, but these inquiries were simply professional inquiries of individuals, without understanding or agreement with others, leading to no action on the part of any individual or association. No reference to the subject of discounts has been found at any meeting for several years.

(e) The matter of the production capacity of mills of member companies has been referred to, but the allegation that "it was frequently and adroitly discussed in such a manner that it was not necessary to openly advocate curtailment of production" or "frequently and adroitly discussed" or "discussed" at all is denied. The capacity of mills has been referred to only on two or three occasions and in the manner illustrated by an inquiry to counsel directing attention to the fact that the Pennsylvania Highway Department was worried as to whether it would be able to secure enough cement to go on with its road program during 1920 (in view of the shortage of cement resulting from the inability of the railroads to deliver necessary freight) and inquired whether it would be proper to consider what could be done to furnish the amount desired by the State Highway Department under then existing conditions.

[fol. 97] (f) The allegation that "the employment of a force of checkers or inspectors to investigate contracts was discussed" is admitted. It was fully discussed and put into operation at the close of 1917, one of the nationally-known commercial-reporting houses having been employed to do the work on contract a few months before.

The remark about "a detective from the Cement Trust" mentioned in the Petition was frivolous. To the members of the Association constantly struggling with each other in the market, the struggle from time to time being bitter, reference to a "Cement Trust" presents grim humor. At the same time there has been for many years a good deal of uninformed and irresponsible propagation of the notion that every commodity, including cement, is controlled by a "trust." For more than twenty years certain newspapers have made it a practice, pictorially and verbally, to personify the industries of the country into repulsive beings denominated by the designation of the commodity followed by the word "Trust." In the case of cement this idea has been perhaps confirmed in uninformed minds by the mere fact that there is usually but one marked price at any particular point at any particular time. This irresponsible talk of a "Cement Trust" was noted by the Geological Survey years ago, which then pointed out that "newspaper statements to the contrary notwithstanding," no trust existed or could exist in the cement industry and that on the contrary "the cement industry is the most individualistic of the larger branches of manufacture," which remains true today.

But the "Cement Trust" is vigorously proclaimed for competitive and demagogic purposes to the great damage of the industry so that the term is known to every manufacturer.

[fol. 97½] The reference to a "detective from the Cement Trust" was in connection with the consideration of the subject whether engineers should be employed to ascertain the actual requirements of "specific job contracts". In that connection one of the members suggested that the effect of such investigations upon contractors and dealers should be considered, and that it would be desirable to instruct the investigators carefully as to how they should make their investigations lest "there may be a feeling in the mind of the contractor that he would not give the information to what he may term a 'detective from the Cement Trust'."

(g) The defendants deny that "diversion of cement from one job to another was opposed". The only reference to the subject which can be found occurred at one meeting when there were some pages of discussion as to whether or not it was desirable to make a separate report of the accounts in attorneys' hands, or simply include them in the report containing also accounts long overdue, during the course of which one member spoke of the fact that in some cases accounts are placed in attorneys' hands by reason of a dispute, and another member said that he "had an instance of that", where a concern had diverted "specific job" cement to sell it at the advance price, and the manufacturer after demanding the difference in price, had placed the matter in the hands of an attorney for collection. The remark was simply to illustrate a discussion as to the form of the credit report and had nothing to do with regard to suggesting how any one should conduct himself. It is the only reference which can be found to which the allegation (g) concerning opposition to the diversion of cement at meetings can apply.

[fol. 98] (h) The allegation that "the importance of adopting a uniform accounting system was discussed" is denied. On one occasion a member asked whether it was a subject for consideration by this Association, and being told that it was not and that the matter was being dealt with by the National Association, observed that that Association was slow in dealing with the matter.

(i) The allegation that "the credit to be allowed for bags returned was openly discussed and the importance of uniformity in that regard was pointed out" is denied. Apparently the pleader has been confused by a discussion concerning the terms upon which cement manufacturers exchange bags with each other, which is a different subject. Purchasers of cement in returning bags often ship to a manufacturer a large bundle of bags comprising some bags of other manufacturers with the result that these have to be sent to the manufacturers to whom they belong. There is in that way a constant exchange of bags between manufacturers. For years the practice has been to allow five cents for each bag so exchanged. At the July meeting, 1918, one of the members said, "I have received from a number of the companies, letters in regard to the inter-company

sack exchange basis, 'foreign sacks.' I believe we could discuss that here as to the desirability of a change, and as I know that some of the members have been making that change, it seems to me we ought to have a uniform practice—all of us."

The discussion developed the danger that changing the price of the sacks for interchange between mills from five cents to ten cents would "encourage customers in returning all their sacks to one manufacturer." No action was taken. The discussion related to bargaining between the member companies, and did not concern the credit [fol. 98½] to be allowed for bags in the usual sense of those words.

(j) The allegation that "the subject of trade relations was discussed" is denied. There has been no discussion of trade relations. On one or two occasions a member has asked whether some subject which might relate to trade relations was within the purview of this Association's activities, and been told that it was not, and reference has been made to the fact that the matter inquired about had been considered by the Trades Committee of the Portland Cement Association.

(k) The defendants admit that "the members of the Association expressed satisfaction with the results accomplished," but none of those results were results connected with the subjects mentioned as occurring at meetings in the Petition, and none of them were the results set forth in the Petition as connected with the alleged "combination and conspiracy". The Association has been of real value in defining actual contract obligations, discouraging misrepresentation and cheating, and promoting fair dealing, without restraining freedom of action in the remotest degree.

Reports

Defendant, the so-called Eastern Association, uses between twenty-five and thirty forms of reports in connection with its various activities hereinbefore recited. The use of each of the forms mentioned in the Petition has been hereinbefore explained. Representative specimens of each as used, or exact copies thereof, are reproduced herewith (Exhibits VII to XXV inclusive).

[fol. 99] The allegation that the reports constitute a means, or that the defendants or any of them employ any means, to accomplish any unlawful combination or conspiracy, is denied.

The allegation that the defendant Eastern Association exchanges reports with the Mid-West Association, is admitted. Some of the members of each of these Associations sell cement in some of the territory covered by the service of the other Association. For instance, a manufacturer in the Lehigh Valley may sell cement in Ohio and a manufacturer in western Pennsylvania may sell cement in Maryland. The principal function and service of the Associations, the information concerning "specific job contracts", is as desirable when the contract relates to a job in Ohio or Maryland as it is when the job is elsewhere. The other company involved in the duplication of the same contract, or the location of the job, is not material. By

exchanging their reports, the two Associations enable their members to get the same kind of facts existing in a certain amount of territory not covered by the service of one association alone.

[fol. 99½]

3. Other Concerted Acts

These defendants deny that any making of sales f. o. b. point of delivery, any use of "freight basing points" or any establishment of any "mill base price," or any charge or credit for bags, is a concerted act, and aver that the imputation made by listing them under the heading "Concerted Acts" in the Petition, is not justifiable in point of fact.

Points of Delivery. Delivered Prices

Under conditions commonly and generally prevailing, cement is sold f. o. b. point of delivery at all points. Under other conditions or circumstances, when the usual competition is relaxed (as during the recent car shortages), sales are frequently made f. o. b. mill. These exceptional circumstances where the pressure of the usual competition is relaxed are disregarded in the following explanation—

The making of sales f. o. b. point of delivery or delivered prices is the result of economic causes and of many manufacturers bidding for the patronage of each purchaser, which has been for many years fixed by the intensity of the competition it evidences.

The practice probably originated from the mere fact that freight is an important part of the prices which the purchaser pays for the commodity, and the purchaser is seldom qualified to figure freight rates. The practice existed in the sales of natural cement before Portland cement was produced to any considerable extent in the United States. Its history cannot be accurately and briefly summarized by [fol. 100] reason of the fact that in the early days of the industry many of the manufacturers sold their product through large distributors, who, in turn, sold to dealers, perhaps as a consequence of the fact that Portland cement (until the development of the rotary kiln did away with the advantage of the foreign producer in cheap labor), had previously been distributed by importers. In some instances sales f. o. b. point of delivery or at a delivered price, resulted from special freight rates given particular manufacturers locating on particular lines of railroad or other exceptional causes. Approximately twenty years ago the then largest producer in the Lehigh Valley made the practice universal on all its sales, and following that, in the course of the succeeding years the practice became universal except that some manufacturers continued to sell their product through distributors, who in turn fixed the prices which dealers and consumers paid.

Whatever the early history, for the past ten years or more, the practice of selling f. o. b. point of delivery or making a delivered price, has been made unavoidable by the competition; and competition of the intensity now prevailing could not exist in the absence of the practice.

For instance, a manufacturer in the Lehigh Valley seeking to sell cement in New York City must offer it at as low a price as the purchaser can buy the thing for in New York City. It would be idle for the manufacturer to ask the purchaser to pay a higher price on some plea that the manufacturer's mill happens to be located at a point which involves the payment of more freight than his competitor has to pay, because the purchaser is interested only in what the thing costs him and places his order accordingly. Therefore, the manufacturer has to offer the thing to the purchaser at what [fol. 100½] the purchaser can get it for. That necessarily means selling the thing f. o. b. point of delivery or at a delivered price, the manufacturer absorbing or deducting from the amount which he receives whatever portion of the freight rate may be necessary to enable him to compete. Thus sale f. o. b. point of delivery or the making of a delivered price is a necessary result and inevitable incident of the competition, without which such competition could not exist. The allegation in the Petition that it represents a "concerted act," implying absence of competition, is directly opposed to the fact.

The allegation in the Petition that the purchaser pays the freight and is allowed credit therefor when making payment for the cement, is true in some instances and not in others. Generally, each manufacturer independently arranges for the actual payment of the freight to the railroad in that way, chiefly because it is advantageous in dealing with losses in transitu, diminishes somewhat the amount of capital advanced by the manufacturer and so tends to make costs and prices a little lower, and affords a constant check on freight rates. In cases of delivery to the many points where there is no freight agency and to the points like New York City, where delivery involves trans-shipment, each manufacturer usually pays the freight in advance. In all cases each manufacturer does just as he chooses, without any restraint legal, moral or social.

Freight Basing Points

These defendants deny that they, or any of them, have concerted to use any "freight basing points" or that there is in the northeast-[fol. 101] ern section of the United States any arbitrary "basing point" used by defendant corporations or any of them. There is not a word about "basing points" in any paper or proceeding of either the National Association or the Protective Association, nor is there any agreement or understanding of any nature whatsoever, among the defendants concerning them.

Each of many of the defendant corporations independently does frequently refer to the freight rates from several of the points mentioned in the petition as "basing points" to many points of delivery; but such use as is made of so-called "basing points" by any of these defendants is in effect the opposite of that associated with the term "basing points" in other industries (as, for instance, the steel industry), and the reference to so-called "basing points" in the ce-

ment industry is as a means of securing the lowest price at which cement can be obtained at any point and represents the essence of competition, the facts and explanation thereof being as follows:

There are in the northeastern section of the United States four (or five) points where Portland cement is produced in quantities sufficient to affect the market reachable therefrom, to-wit; Universal, Pa., (where is located a large plant of the Universal Portland Cement Company using in the manufacture of Portland cement slag from the blast furnaces of the Pittsburgh district); Lehigh Valley, Pa., (where are located mills of many of the defendants, all of which takes the same freight rates except on short local hauls in the district, herein disregarded); Hudson, N. Y., (on the east bank of the Hudson River where plants of the defendants Atlas Company and Knickerbocker Company are located); Alsen, N. Y., (across on the west side of the river, where plants of the defendants Alpha [fol. 101½] Company and plants of the Alsen Portland Cement Company, and Acme Portland Cement Company, not members of the Cement Manufacturers Protective Association, are located) and Fordwick, Va. (where a plant of the defendant Lehigh Company is located). The freight rates from Hudson, N. Y., and Alsen, N. Y., on opposite sides of the Hudson River, differ to points freightwise comparatively near and are generally the same to points in territory comparatively distant from the mills. The points named are the points at which all the Portland cement sold in the northeastern section of the United States in fact originates, except some made at a few scattered points, insufficient in quantity and otherwise materially to curtail the territory served by other manufacturers, or to affect the market.

Each of many of the defendant corporations has frequent occasion to refer to the freight rates from these originating points to delivery points as hereinafter explained. Other defendant corporations do not use "basing points" but simply meet the market prices at delivery points.

At substantially every one of the thousands of points throughout the northeastern portion of the United States where Portland cement is purchased and used, many manufacturers are constantly offering the same thing to anyone who will buy, and "offering" in this industry normally means constant and urgent solicitation to buy. In normal times, when the competition of each point where Portland cement is purchased and used is intense, (and disregarding exceptional times of fuel or car shortage operating to create a shortage of cement available at delivery points and to diminish the intensity of the competition there) the market price of cement at any [fol. 102] delivery point at a particular time is simply the lowest price at which any of many manufacturers is offering enough cement to purchasers there. That price may be dissected into the amount realized by some manufacturer plus the amount paid for freight from the mill to the delivery point. If, for instance, the market price at which Portland cement is being offered at Boston, Massachusetts, on a particular date (disregarding bags) is \$2.76,

that means that of that sum a manufacturer at Hudson, N. Y., would realize \$2.10 (the freight from Hudson to Boston being \$.66) a manufacturer at Alsen would realize \$2.05 (the freight from Alsen to Boston being \$.71); a manufacturer in the Lehigh District would realize \$1.94 (the freight being \$.82), and a manufacturer at Universal, Pa., would realize \$1.71 (the freight being \$1.05).

For purposes of explanation, it is convenient to separate the freight factor to one particular point for illustration:

From the beginning of the industry, New York City has been an important market for cement made in the Lehigh District. The total freight from the Lehigh District to New York City (99 miles to Jersey City, plus lighterage across to the point of delivery in New York City) is about \$.55 a barrel. If a manufacturer in the Lehigh District, after figuring his costs and other factors, should decide to fix the price at his mill at say \$2.00 per barrel, and add the freight, \$.55, his cement (exclusive of bags) would sell in New York City at \$2.55. But the competition of other manufacturers completely prevents the employment of that method of determining the price at which he will offer his product and forces him to make his price at New York City instead of back at his mill, because some of the competition he must meet to sell is as follows:

[fol. 102½] Several years ago large cement mills were established on the Hudson River at Alsen and Hudson. The freight from either to New York City is approximately \$.30 per barrel, or \$.25 less than the freight from the Lehigh District to New York City. If the mills on the Hudson could make and sell cement at the same cost as it can be made and sold generally in the Lehigh District, say \$2.00, cement would be sold in New York City for \$2.30. With cement (from Alsen and Hudson) selling in New York City at \$2.30, the cement from the Lehigh District could not sell there at \$2.55. To compete, the mills in the Lehigh District would have to sell their cement in New York City at the price for which the same thing could be bought there, namely, \$2.30, and absorb the difference in freight, so that the Lehigh District manufacturer, instead of realizing \$2.00 would realize \$1.75. By reason of the competition, his individual costs and freight to the delivery point would have a bearing upon whether he should sell at all in New York City, but would not control the price at which he could sell there, which is simply the lowest price at which the informed purchaser there can buy the thing.

The foregoing illustrates one aspect of the freight factor as it in fact exists at New York City and other delivery points throughout the territory, but it omits sundry qualifying factors of the situation, which do not impair its accuracy as an illustration of the matter of "basing points" referred to in the Petition, such, for instance, as the greater cost of manufacture on the Hudson (by reason of higher cost of fuel, differences in raw material, etc.) and other considerations which operate to make it necessary for the manufacturer on the Hudson River usually to realize about \$.10 a barrel

[fol. 103] more than the manufacturer in the Lehigh District, so that the market price of cement in New York City (exclusive of package) when the Petition was filed, was about \$2.40*

The fact that at a particular time the market price of cement in New York City leads back to Hudson or Alsen, while each manufacturer at other originating points is forced by the competition to absorb some part of his freight disadvantage to sell cement there, is sometimes expressed by saying that at that time New York City is taking the Hudson or Alsen base or that Hudson or Alsen is at that time the "basing point" for New York City.

The use of such expressions is practically confined to communications within the organization of the individual manufacturer, as, for instance, between salesmen and office, and does not extend to the trade or public, who have no occasion to dissect prices, except as some dealers in building materials, as representatives of a manufacturer or otherwise, may be concerned with the matter.

A complete understanding necessitates adding to the illustration other factors of the situation, and particularly the fact that no individual sale or particular delivery point can be in general practice treated by a large manufacturer as separate and distinct from other concurrent sales or freightwise similar delivery points. The magnitude of the manufacturer's operations, the great number of customers, considerations of treating them alike and preserving their good-will, the Clayton Law, the ever-present competition (which has made it perfectly plain to every manufacturer that a [fol. 103½] quotation below the market price at any point will be met by all manufacturers selling there, and so will mean not merely getting a particular order but changing the market price) and a multiplicity of other considerations, prevent any large manufacturer from isolating individual sales or delivery points to any considerable extent.

Accordingly, when the price at which the cement of a particular manufacturer is selling at a particular point is a particular figure, that commonly implies that the prices of his cement at sundry other points are other particular figures. If, for instance, his cement is offered at, say, Binghamton, N. Y., at \$2.61, that implies that it can be bought at Elmira, N. Y., at the same figure (because the two delivery points take the same freight rate from the originating point freightwise nearest thereto) and it further implies that it can be bought at sundry other delivery points at figures differing from \$2.61 by the difference in freight rates from that same originating point, unless the market price of cement at any of such delivery points is lower than the price so figured, the lowest price at any delivery point always controlling. At any particular time the

*The Petition having been filed at a time when all prices were declining from those resulting from the economic disturbances occasioned by the war, the prices mentioned are higher than present prices. At the time this Answer is filed the market price in New York City is about \$2.10, the manufacturer shipping from the Lehigh District realizing about \$1.51 per barrel.

price quoted by a manufacturer at Elmira, N. Y., usually implies, for example, that that manufacturer's cement can be bought at, say, Nantucket, Mass., for \$3.37, Falmouth, Me., for \$2.90 and Philadelphia, Pa., for \$2.53, because those are illustrations of delivery points freightwise nearest the same originating point.

Within his own organization, the members of which are entirely familiar with such matters, it is necessary for a manufacturer to tell his salesman to sell cement at Binghamton, N. Y., at \$2.61, at Elmira, N. Y., at \$2.61, at Nantucket, Mass., at \$3.37, at Falmouth, Me., at \$2.90, at Philadelphia, Pa., at \$2.53, and so on through [fol. 104] thousands of different markets. He may express the facts by telling his salesmen to sell, in the illustration, \$2.00 Lehigh base, whereupon they add the freight and offer and sell his cement at the various delivery points at the prices mentioned, unless the sum thus figured is higher than cement is quoted at any of those points at that time.

Similarly, if a competitor shipping from the Lehigh Valley then offers his cement at Binghamton, N. Y., at, say, \$2.51, the fact, if reported by a salesman over the telephone, would in many cases be expressed by a statement that the competitor's cement is being offered at Binghamton at \$1.90, Lehigh, and if his dealer at Binghamton should report the fact that he was offered the competing cement at \$2.51, the manufacturer could himself dissect that quotation to \$1.90 Lehigh, and know or conjecture that his competitor had reduced prices at the other delivery points freightwise nearest the Lehigh Valley \$.10, which would be promptly confirmed by reports, with or without inquiries, from other markets.

But by reason of the number of originating points, the price at which manufacturer will sell his cement to purchasers cannot be expressed to his salesmen by reference to only one originating point; and instructions mentioning only one originating point would prevent him from competing in a large part of the territory he serves. If, for example, his instructions to his salesmen were limited to directions to sell at prices figured from one originating point alone, he could not sell any cement at the great number of delivery points where enough cement was selling below the figures thus expressed.

If he named any price in this way, he would name the prices at which he would sell at all points of delivery,—places freightwise nearer other originating points, as well as those freightwise nearest the Lehigh District mentioned in the last illustration, Allentown, Pa. (nearest Universal), as well as Philadelphia, Pa. (nearest the Lehigh Valley), New York City, N. Y. (nearest Hudson or Alsen), as well as Binghamton, N. Y. (nearest Lehigh), and so on.

To name the prices at each of these thousands of points, the manufacturer uses the same shorthand form of expression that he uses in naming the prices at which he will sell at points freightwise nearest one originating point, namely, he summarizes the delivered prices at a great number of points by subtracting the freight to the originating point freightwise nearest thereto, and tells his

salesmen to sell at any delivery point by adding the freight from each originating point to a figure he names for each originating point and using the lowest total. Thus, by naming to his salesman a price at each of the originating points from which cement can be shipped into the territory, each manufacturer can express the prices at which he will sell throughout the territory infinitely more shortly, but with the same effect as if he gave his salesman a list mentioning all the thousands of markets with the prices set opposite each.

This form of expression or reference to so-called "basing points," when used at all, is confined to each manufacturer's own organization. Some of the defendants do not use it, but simply sell at what they can get at delivery points. In so far as it relates to one originating point, it is simply a convenient method of expressing within his organization the prices at which he will sell cement in certain markets. In so far as it refers to other originating points, in addition to its function as a convenient form of expression, it is forced by, and evidences, the additional competition which compels each manufacturer to meet the lowest price at which enough cement is offered to the purchasers at any point.

[fol. 105] A delivery point taking one base at one time takes another base at another time if and when there is sufficient change in either of the two elements into which the market price there may be dissected, either the freight rates or the price realized by any manufacturer at any of the originating points. For instance:—

About March, 1920, cement was selling at, say, Chase Mills, N. Y., at \$2.51, and at points freightwise nearest the Lehigh Valley at figures which, minus freight, left \$1.75. The freight rates to Chase Mills at that time were from Universal \$.76, from Lehigh Valley \$.76, from Hudson \$.68. Cement was then selling at points freightwise nearest Universal at freight plus \$1.85, and at points freightwise nearest Hudson at freight plus \$1.85. The market price at Chase Mills being \$2.51, a manufacturer shipping from the Lehigh Valley realized \$1.75, a manufacturer shipping from Universal realized \$1.75, and a manufacturer shipping from Hudson realized \$1.83. Thus the market price at Chase Mills at that time led back to the Lehigh Valley as the originating point which was not then forced by the competition to absorb any of the freight to meet the market price. In those circumstances the Lehigh Valley was the "basing point" for Chase Mills.

Thereafter freight rates to Chase Mills were changed to Universal \$1.10, Lehigh Valley \$1.07, Hudson \$.96. This change in freight rates operated to make the market price at Chase Mills \$2.81 because cement from Hudson was then selling at points freightwise nearest that originating point at prices which, minus freight, realized \$1.85, and \$1.85 plus \$.96 gives the lowest price at which cement from any of the originating points would then be sold at Chase Mills, the manufacturer in the Lehigh Valley being compelled to [fol. 105¹⁴] absorb one cent of freight and the manufacturer at Universal fourteen cents of freight to compete for the business at

Chase Mills. In that condition of affairs, Chase Mills, which in March, 1920 had the Lehigh Valley as its "basing point," would have Hudson as its "basing point."

But when the Petition was filed, after nearly a year of different price changes by different manufacturers, the market price at Chase Mills, when dissected, led back to Universal, although the freight rate—were the same as those just mentioned. That was due to the fact that cement shipped from Universal was offered at Chase Mills at a price below that which, minus freight to any of the other originating points, gave the manufacturer there the amount he realized from sales at delivery points freightwise nearest his mill. Market prices at Chase Mills, as an illustration, have thus led back successively to each of three originating points or "basing points."

The practical facts expressed by the reference to "basing points" are:—(1) at any point cement sells at the lowest price at which the purchaser can there get a sufficient supply to affect the market, and (2) when any manufacturer of such supply makes a sufficient reduction he reduces market prices throughout a greater or less extent of territory according to the extent of the reduction (bounded by the line where the effect of the reduction is overcome by his freight disadvantage) because other manufacturers, wherever located, must meet the lowest prices at which enough cement is offered at any delivery point, or not sell there.

In thus explaining the use of "basing points" in the industry, the portion of the competition which exists within the small part of each manufacturer's field wherefrom freight rates exclude cement [fol. 106] from other originating points, has been disregarded, because it does not enter into the use made of "basing points" in the industry.

When the demand exceeds the supply, as last year on account of the car shortage, so that the competition is temporarily relaxed, the whole matter of "basing points" becomes unimportant and each manufacturer may, and many do, charge at every point a price which, after deducting freight, will yield a definite figure at the mill. Under normal conditions of competition, reference to "basing points" is a way of expressing and securing the lowest price at which cement is offered at any delivery point.

The use of "basing points" in the industry, in the manner indicated, has existed in principle unchanged substantially since there have been different originating points. It is not the product of any concerted action whatsoever, or dealt with by any association, but an inevitable incident created by the competition which could not exist so intensely without it.

The so-called "basing points" are not "points adjacent to certain groups of defendants' mills," as alleged in the petition. Universal, Pa., is the freight station named after the large plant of the Universal Portland Cement Company there located, from which freight must be paid on shipments. Lehigh Valley, Pa., is a convenient term for a group of freight stations in that district where many cement mills are located, from all of which the freight rates to most

of the delivery points are identical. Hudson, N. Y., is the freight station from which the cement is shipped, and the same is true of Fordwick, Va. Although more cement is shipped from the Lehigh Valley than the other points, that fact does not measure the importance of that point as a so-called "basing point," because a large [fol. 106½] part of the cement shipped thence is sold at delivery points at prices which result from the competition of those located at the other originating points freightwise nearer such delivery points.

Accordingly, the allegation of the Petition as to "freight basing points," is denied.

Freight Rate Books

The defendants admit that defendant corporations have caused to be compiled, printed and distributed to members of Cement Manufacturers Protective Association, called in the Petition Eastern Association, books called Freight Rate Books and make profert thereof. They admit that these books show in convenient form the actual freight rates from points whence cement is in fact shipped in sufficient quantities to affect the market to practically every city and town in the northeastern section of the United States. They deny that said points are arbitrary. They aver that said freight books as hereinabove explained (p. 117), have no purpose or result other than to save an enormous amount of economic waste, otherwise involved in finding and figuring freight rates, the avoidance of many errors and consequent disputes, the more accurate fulfillment of the purposes and laws of the United States concerning uniform published freight rates and the benefit of the cement industry and the public.

Mill Base Prices

The allegation or suggestion that any price is a concerted act, is denied. The allegation that defendant corporations established from time to time so-called "mill base prices" for each basing point, is denied.

[fol. 107] As hereinabove explained in connection with "Freight Basing Points" (p. 142) some of the defendant corporations, each within its own organization and not otherwise, from time to time name a price at each originating point as a way of expressing shortly the great number of differing prices at delivery points. Other defendant corporations do not name a price at any point except delivery points.

The term "mill base prices" is not one commonly used or generally applicable in the industry. As herein above explained (p. 142), the competition forces each manufacturer to sell his cement at prices which are not based on his mill, but are governed by the price at which cement is offered at the delivery point, which when dissected may lead back to an originating point far removed from his mill. Accordingly, the price realized by any manufacturer at his mill is one thing and figure, and the "base" to which any price leads may

be a different thing and different figure, so that the expression "mill base price" is often self-contradictory in this industry.

The price established or received by each manufacturer either at his mill, or at any base, or anywhere else, has been, and is, established or received by each manufacturer independently and not as a concerted act. The prices established or received at his mill by each manufacturer at any particular time differ from each other within pretty wide limits, according to when and where each lot of cement has been sold. A manufacturer whose mill is located in the Lehigh Valley, for instance, may at the same time realize one price on a lot of cement which he contracted to deliver in New York City some time before at a particular price, a materially different price [fol. 107 $\frac{1}{2}$] on a lot of cement which he contracted to deliver in Philadelphia, Pa., on the same date, still another price on a lot of cement which he has sold more recently in New York City, a fourth price on a lot of cement which he has sold more recently in Philadelphia, Pa., a fifth price on a lot which he has sold at any of those times in Altoona, Pa., and so on. By reason of the competition usually existing, the manufacturer usually has no definite mill price; and he is forced to conduct his business by fixing, independently, a minimum net realization, declining to sell at any point in the territory at a price which, minus freight, will yield less than that minimum and otherwise meeting the lowest price at which enough cement is being offered at any of the delivery points.

The minimum net realization of each manufacturer is determined by himself from time to time and not communicated in any way to others. It depends upon a multiplicity of considerations (including the fact that within certain limits as production increases his costs diminish, his financial position, the amount realized or to be realized from past commitments, his individual policy with regard to the future, etc., etc.) which may place that minimum below cost and which concern the manufacturer individually and no one else.

Accordingly, there is in the industry in normal times no such thing as a "mill base price." If there were in the territory covered by the competition of these defendants only one originating point for cement, the intense sales competition at the delivery points would presumably result in identity of delivered prices and so, freights being identical, identity of a mill base price. But in fact each manufacturer is compelled by the competition to sell cement at a [fol. 108] multiplicity of prices at a multiplicity of delivery points, without regard to his individual costs, freight rates or wishes. Accordingly, he does not receive any particular price at his mill, but a different price, according to where each lot of cement is sold and what is left after deducting from the price at which it has sold the freight from his mill.

Charges and Credits for Bags

The allegation or suggestion that the charge or credit for bags is a concerted act of defendant corporations, is denied. The bags are

mere containers, not intended to be retained permanently by the purchasers of cement, but to be returned to the manufacturer. The exact amount charged for them is repaid upon their return, the entire transaction resulting in no profit, but in actual loss to the defendant corporations.

The figure charged and credited for bags (which is an equal amount) exists by reason of competition so intense that in this item alone it has within the past year occasioned these defendant corporations an actual loss amounting to several million dollars.

By reason of the competitive factors hereinbefore mentioned, cement cannot be sold with a charge (and credit) for bags greater than the charge (and credit) therefor with which it can be purchased in the market. For many years prior to 1918, the charge (and credit) had reached and maintained a normal level of 10 cents per bag, or 40 cents per barrel of cement, the purchaser paying 10 cents for each bag when cement was shipped and being paid 10 cents for each bag returned in usable condition. As a result of war conditions, under which the cost of bags to the cement manufacturer advanced to upwards of 30 cents, and as a result of an agreement in August, 1918, between the War Service Committee on Portland Cement and the Price Fixing Committee of the War Industries Board, the charge for bags became 25 cents per bag and the repurchase price or allowance 25 cents. In April, 1919, it became 15 cents, in 1920 again 25 cents and about six months ago 10 cents.

The operation by which the last change was effected illustrates the controlling competition: One manufacturer offered cement with bags charged at 10 cents each. At the time, practically every manufacturer had on hand great quantities of bags for which it had paid 25 cents or more, and bags are now still being delivered to many of them, under previously made contracts, at much more than 10 cents a bag. For any of them to sell bags at 10 cents meant some loss, and for many of them it meant losses of hundreds of thousands of dollars. The inexorable fact that it is impossible for a manufacturer to sell above the price at which the informed purchasers knows he can buy the identical thing, plus the action of one manufacturer in reducing the charge (and credit) for bags to 10 cents each, caused all others promptly to meet the reduction, and within two or three days all the defendant corporations each independently and sorely against its will, made its charge (and credit) 10 cents and took its losses.

It is true that the matter of bags has been discussed at times during the history of the industry. It presents some of the most annoying difficulties with which the manufacturer has to deal, involving difficulties in getting bags returned on account of their use for other purposes by the purchaser and their unattractive character as freight to the railroad, difficulties in cleaning and counting them in separate [fol. 109] lots, variations in their cost to the manufacturer with the price of the fabric, and otherwise. Different ways of meeting some of the problems have been discussed, but no solution has been found. Some of the defendants retain title to their bags; others sell and buy

them back. It remains a problem which each manufacturer now deals with independently.

[fol. 109½] (4) Alleged Operation of the Scheme as to Manufacturers

Of the four elements alleged in the Petition to "constitute a gigantic scheme of concerted action," only one, the "dissemination of statistical data," in fact has existed or exists. Neither the "exchange of views at frequent [or any] meetings" nor the "action taken pursuant thereto," imputed in the Petition, has any foundation in fact; and there has been no "concerted", or other, "adoption and observance of the trade practices."

The allegation that there has been "an exchange of views at frequent meetings" is denied. The meetings have not been frequent, those of the Portland Cement Association occurring three times a year, and those of the Cement Manufacturers Protective Association averaging less than one a month. The times of the meetings or the subjects mentioned thereat have not in any way coincided with any change in the conduct of any part of the business of any manufacturer. The views exchanged at meetings have not concerned anything affecting competition, price or output or the like, but have been views concerning the proper conduct of the Association's activities within the limited spheres hereinabove defined (pp. 71, 98). No action affecting competition, price, output or the like, has been taken by anyone "pursuant" to any "exchange of views" at any meeting of these defendants.

The allegations that any trade practice has been adopted or observed by concerted action is denied. The practices of these defendant corporations in the particulars mentioned in the Petition are diverse and have not been brought about by any concerted action (pp. 87-97).

[fol. 110] The allegation that statistical data are disseminated is admitted within the limits hereinabove set forth (pp. 98-126), and otherwise denied. The existence of a gigantic or any scheme of concerted action is denied.

The allegation that the salaried officers and employees of Cement Manufacturers Protective Association are provided for the purposes indicated in the Petition is denied. They are provided ministerially to perform the work of the Association as hereinabove set forth (pp. 98-139), and for no other purpose.

The minutes of Cement Manufacturers Protective Association show that on one occasion a resolution that each defendant corporation send to the Association its capacity for the production of Portland Cement and that the same be compiled and furnished the members was adopted. So far as can be discovered this was never done, because, such capacities having been published by the United States Government and for many years in several directories put out by trade papers and others, its triviality caused it to escape attention.

These defendants admit that the members of the Cement Manufacturers Protective Association furnish its office monthly reports

showing the amount of clinker burned, cement ground and cement shipped during the month and the amounts of clinker in stock and cement in stock at the close of the month, and that the office compiles and distributes monthly to all members comparative tables of figures showing as to each defendant corporation the amounts of clinker burned, cement ground and cement shipped during the month, and the amounts of clinker in stock and cement in stock at the close of the month, a summary of that information for the elapsed period of the current year, for the corresponding period of [fol. 110½] the preceding year, and that such tables have been and are being regularly compiled and distributed and have been regularly compiled and distributed since early in the year 1916. A representative specimen of such tables is reproduced herewith and made a part hereof (Exhibit XX, p. 352).

Statistics of the production, shipments and stocks on hand have also been distributed by the Portland Cement Association for nearly twenty years, and the figures for, and at the close of, each year (together with price figures, new capacities, etc.) have been distributed by the United States Government since 1894.

It is admitted that defendant corporations (with the four exceptions noted, p. 22) furnished the Cement Manufacturers Protective Association's office with information as to each "specific job contract" (including date made, date of termination, name of contractor, full description and location of work, quantity sold, price, quantity delivered to date and balance to be shipped) made for the future delivery of Portland Cement, and the office compiled and tabulated such information as to all members (with the exceptions noted, p. 22) and furnished copies of such compilations and tabulations to each (with the exceptions noted, p. 22), and that such information has been furnished and such compilations and tabulations have been and are being made and distributed daily, and a summary of the daily reports is distributed monthly, but it is denied that "daily" in this connection implies that the information concerning contracts is afforded on the day the contract is made, the fact being that a period of on the average eight days elapses between the time the contract is closed and the time when the information reaches the office of the Association.

[fol. 111] It is admitted that "the checkers" of said Association, at the request of any member, investigate the construction work designated in any "specific job contract" reported, to ascertain the quantity actually needed, and that the facts ascertained are reported through the office of said Association to all the members interested therein. It is denied that the so-called "checkers" have determined or determine the priority as between two or more such contracts made by different members covering the same construction work. Neither the "checkers" nor the Association have anything to do with determining any question of priority or the like, in connection with any contract or otherwise, the activity of the Association and all its employees having been and being completely limited to ascertaining and presenting the facts without attempting the slightest suggestion or direction of acts of any member or comment thereon.

It is admitted that defendant corporations (with the exceptions noted, p. 22) report to the office of the Association, all cancellations on account of contracts for "specific jobs," and such reports are communicated to all members.

It is denied that the cancellations reported are limited to cancellations on account of contracts found to exceed the actual requirement of specific construction work or found to be duplicates of contracts held by other members. The cancellations reported are cancellations for any cause whatsoever, without any reference to the reasons for the cancellations, and are necessary to make the reports correct and accurate.

It is denied that "in consideration of the cancellations of contracts thus reported by certain members many other members made similar [fol. 111½] cancellations of their contracts". There is nothing of that kind, and it may be pointed out that if members cancelled their contracts on account of any information concerning cancellations received through the Association, they would be guided simply by the fact that other members had cancelled contracts without any explanation of the reason therefor, and the result would presumably be the cancellation of all contracts on the theory advanced in the Petition.

Every cancellation of any contract by a member of the Association has been the independent act of that member without previous suggestion or subsequent comment from the Association or any part thereof.

It is denied that "the quantities of cement under contracts for future delivery at prices specified as of the dates of the contracts" have been reduced to a minimum or diminished by the reporting or investigation of such contracts. On the contrary the quantity under such contracts at the end of May, 1920, was the largest in four years of records and probably in history. The only effect thereof has been to enable the manufacturer to know which of the papers in the form of contracts to supply cement to be used in a "specific job" would require him to deliver any cement and how much cement he would be called on to deliver under each such contract. It is admitted that this knowledge gives each manufacturer a more complete control to the extent and only to the extent that knowledge of the truth concerning his contract obligations for future delivery enables him to conduct his business more efficiently and thus reduce costs and prices and to protect himself, if he wants to, against being cheated. It is denied that any activity of the Cement Manufacturers Protective Association gave the manufacturers collectively any control whatsoever over the situation or over anyone.

[fol. 112] It is admitted that, by the defendant corporations sending in the information and the office compiling and tabulating it and distributing copies of such compilations to each member, the Association gives each member information concerning the total shipments of cement made during each fifteen day period.

It is admitted that each defendant corporation has information as to each other defendant's production capacity. It is admitted that each defendant (with the exceptions noted, p. 22) has full and

complete information as to the quantity actually produced, the quantity which has theretofore been sold on "specific job contracts" and at what prices it was so sold, the quantity cancelled, and that approximately one-third of the total production is sold on "specific job contracts." It is admitted that the differential in prices between dealers and contractors is now generally 10 cents per barrel, except in a certain part of New Jersey, where the differential is 25 cents per barrel, and some other places. It is admitted that to the extent thus set forth each manufacturer is cognizant of the business of competitors, and to that extent has "his finger constantly on the pulse of supply and demand."

It is denied that the course to be followed by any of these defendants under any contingency was thoroughly or at all understood, or that the defendants have taken or would take any action whatsoever pursuant to any understanding. The only understanding which has existed or exists in this regard is the understanding that each manufacturer shall at all times be completely free to act in every respect and particular exactly as it pleases without suggestion or comment from others, as each has done and does.

[fol. 112½] It is denied that the defendant corporations, or any of them, would or have shut down any mill or operated it at less than full capacity in consequence of any understanding. Each defendant corporation has at all times operated its mills so as to make as much cement as by its utmost efforts it could make and sell.

It is further denied that if any defendant corporation should reduce its production "when the supply showed a tendency to materially exceed the demand," that would represent "nullifying the operation of the law of supply and demand," and averred, on information and belief, that it would represent obedience to that law, which would tend to prevent the distresses of shutdowns, unemployment, financial failures and other evils, frequently following attempts to do business without regard to that law or—what is the same thing—without knowledge of the demand and supply upon which obedience to that law necessarily depends.

When every particle of "concerted action" through the Cement Manufacturers Protective Association has functioned to its utmost limit, the defendant corporation merely knows more, or more easily, about (i) its contract obligations for future delivery, (ii) the financial obligations of delinquent debtors seeking credit, (iii) the official freight rates and (iv) the existing supply of the commodity. Every manufacturer since manufacturing began, has had some knowledge of those things. To say that these defendants must act in ignorance or imperfect knowledge of them, or any part of them, would injure the defendants and the public, and benefit only the dishonest.

[fol. 113] 5. Alleged Operation of Scheme as to Dealers and the Public

The allegations and suggestions that there is any "scheme" in operation, or any concerted action of the defendants against which the trade or public need a "defense," are denied.

The defendant corporations differ from others concerned with

cement, not in being less members of the public, but in that they occupy the position of producers and sellers, whereas others occupy the position of buyers.

The seller and buyer of cement present the same situation presented by the seller and buyer of other commodities since trading began, except that the seller of cement in the territory here involved meets sharper competition from other sellers of the same thing. The principal effect of that, aside from normally abundant supplies at low prices, has been that the buyer of cement is able to secure a privilege (which so far as known to these defendants is exceptional) of freely obligating the seller to deliver a long time in the future at a present price cement entering into any definite piece of construction and pay for the same after delivery without enforceable reciprocal obligation to take or the giving of any consideration of actual value on the part of the buyer.

So far as these defendants know, in no industry is it possible for the buyer to make contracts wherein the seller (without any valuable consideration therefor) obligates himself to deliver anything at a particular price a long time in the future, if the buyer wants to take it then and not otherwise, and the buyer assumes no real obligation [fol. 113½] whatsoever. The fact that that represents the substance of the situation as between seller and buyer of cement where the cement is to be used in a particular piece of construction or "specific job" represents the only substantial difference between the defenselessness of the buyer or the seller of cement, and that of the typical buyer or seller since trading began.

The alleged experience of the dealer at Brockton, Mass., set forth in the Petition, does not represent the experience of any one dealing with any of these defendants, and is denied. Treating it as an illustration of a typical experience of a dealer in Portland cement, and correcting some of the multiplicity of erroneous allegations of the Petition, his experience has been and is as follows:

(1) Any dealer can buy from any of the defendant corporations as much cement as is available and he will promptly take and pay for, and in the transaction his position is that of the typical dealer in anything since trading began.

(2) If he wants to buy at the price at which the manufacturer sells dealers as distinguished from consumers he would commonly have to be a dealer performing a service. In general a manufacturer will not sell one man at a lower price than another at the same place is paying at the same time, unless one is a dealer and the other a consumer; and as these defendants are advised the manufacturer might violate the Clayton Law if he acted otherwise. This is not a matter of concerted action, but the general course of each manufacturer, whether members of any association or not, acting independently. It is equally true of the distribution of most commodities, and has been since trading began.

[fol. 114] (3) Each manufacturer is the sole judge whether he will sell anyone as a dealer or as a consumer. There is no such thing in the industry as a "recognized dealer" in the sense of any kind of collective recognition by manufacturers. The definition of a dealer in the report of the Committee of the Portland Cement As-

sociation, hereinabove mentioned (p. 85), used the expression "recognized in his home town as a building material dealer." The manufacturer of cement may or may not ascertain and take into consideration the fact that a person is "recognized in his home town as a building material dealer," or any other fact, or make his dealer's price to one whom he knows is not a dealer, precisely as he chooses. There is no recognition of a dealer by these defendants collectively. It is solely a matter which each manufacturer judges himself, just as any manufacturer of anything sold through dealers has had to do since trading began.

(4) The allegation that any sale is conditioned upon whether the manufacturer "thinks the dealer can make proper use of the quantity of cement specified" is denied. The allegation may be based upon a misconception of incidents during the shortage of cement in 1920, substantially as follows:

When it was impossible by reason of car shortage to supply adequately all localities with cement, each of the defendant corporations independently sought so to use the available cars as to distribute what cement could be shipped most fairly, to hold their regular customers, and make the immediately available supply meet most pressing needs until more became available. In that connection and at that time the use to which the person seeking shipment was to put the cement, was sometimes inquired about. Except for that, the use [fol. 114½] which the dealer is to make of the cement has not been noted or cared about by any of these defendant corporations in current business.

(5) If the dealer pays cash, the manufacturer makes no inquiry whatsoever concerning his financial resources. If the dealer wants credit, each manufacturer usually first satisfies himself that the dealer's credit is good for the amount involved. If the manufacturer does not know the particular dealer in question, he refers among other sources of information to the reports of the defendant Cement Manufacturers Protective Association to see whether the purchaser has accounts with other cement manufacturers which are long overdue, or in attorney's hands. With that and other information the manufacturer makes up his mind independently concerning how much credit he will extend to that dealer. If, for instance, he finds that that particular dealer owes considerable sums to cement manufacturers, so that it seems probable that the order results from the fact that other manufacturers decline further credit, the manufacturer will presumably request the dealer to show his ability to pay for the cement or give security before extending credit. If he finds that the dealer owes considerable sums to other cement manufacturers but is entirely able and likely to pay, he will extend credit. The extension of credit is not governed by the fact as to whether or not the dealer appears in the reports of the Protective Association as indebted to another cement manufacturer. The extension of credit is a matter which each manufacturer determines for himself.

The fact that the manufacturer is provided with a little more information concerning the financial position of those seeking credit (or less than he had in early days when goods were not shipped far [fol. 115] and he knew his customers) leaves the dealer in cement in the same position as that of any dealer since trading began.

(6) Whether or not different quotations at Brockton or other delivery point will be found to be at the same price, depends upon the time and circumstances—whether quotations are made at a time when the economic factors have resulted in a market price at the point which no one then wants to disturb, or there is temporary shortage or surplus for delivery there, or some manufacturer has determined to reduce or advance his price there, etc., as has been true of the market price of any staple, homogeneous commodity since trading began.

(7) The matter of sales being made f. o. b. delivery point, the matter of the credit for bags, and the discount, have been answered (supra, pp. 88, 140, 157).

(8) The allegation as to the limitations on the quotation and that "if the dealer desires to purchase a larger quantity of cement he must show that it is to be used on a specific job," is denied. The limitation in the quotation has to do only with insuring each manufacturer against over-commitment resulting from unexpected acceptances of an aggregate greater quantity than he can deliver, under the great number of offers or quotations which he has out at all times. The limitations in his quotations do not mean or imply that anyone cannot buy from him as much cement as he has. They mean only that he reserves the right to know what he is doing and that the purchaser wishing an unusual quantity or a future delivery must acquaint him with the fact before committing him to deliver what it may be impossible for him to deliver. All manufacturers have necessarily required information as to the extent of obligations before assuming them, since trading began.

[fol. 115½] Each of the defendant corporations has always sold whatever quantity from its supply any dealer will take and pay for, without regard to whether it will be used on a "specific job." The job is immaterial except when the contract is for delivery so far in the future that unless the cement is needed for a "specific job" the contract is merely a gambling contract. As hereinbefore pointed out (p. 167) the position of the buyer of cement for future delivery is believed to be more advantageous to him at the expense of the producer and seller than that of any other buyer for future delivery since trading began.

(9) The allegation that in the case of "specific job contracts" the dealer "must furnish the manufacturer a copy of the contract for the construction of the building," is denied. Only one of the defendant corporations requires that, as hereinabove pointed out (p. 89).

(10) The allegation that when "the checkers determine whether the quantity ordered is actually needed, and if not, the excess is canceled," is denied. In the case of "specific job contracts" for future delivery, or such of them as any manufacturer suspects may not be bona fide or overestimated, the so-called "checkers" visit the job and ascertain the facts, which are placed before the manufacturer interested, who independently does exactly as he chooses. The excess is not called for by the contract (*supra*, p. 104) and each manufacturer delivers it or cancels it as he sees fit. No manufacturer has considered himself obligated to deliver goods not called for by contract, since trading began.

(11) The allegation that "dealers and contractors resent the activities of the checkers" is denied. Some dealers or contractors (as [fol. 116] those who desire opportunity to make an unearned profit by obtaining cement on the false representation that it is needed in a "specific job" covered by an existing contract, and then reselling it at a higher price) may resent the facts as to the requirements of the contract being developed, but most dealers and contractors are glad to have the amount of cement which a job will require expertly determined, and assist the so-called "checkers" in their work.

(12) The allegation that "if by any chance more cement has been delivered to a particular job than is required * * * the contractor is required to pay the difference between the original price and the prevailing price," is denied. None of these defendant corporations makes it a practice to require anyone to pay any difference in price after cement has been delivered. The only effect of checking the amount of cement required for a "specific job" for which a contract calls, is to enable each manufacturer to know the truth and act exactly as he pleases; and while in many instances a manufacturer has thus declined to deliver under a contract cement for which the contract does not call, in other instances manufacturers deliver the cement regardless of the fact that it is not covered by the contract; and, except in one or two flagrant instances of fraud, wherein the defrauded manufacturer has independently initiated legal action, no manufacturer has paid any attention to cement after delivery.

(13) The allegation that the contractor or other dealer finally holds a contract for "the quantity of Portland cement the manufacturer is willing to let him have for the specific job," is denied. He holds a contract for the future delivery of so much cement as will be required to complete the work or such portion thereof as he [fol. 116½] may name in the contract. The contract itself defines and expresses the limits of the manufacturer's obligations, as contracts have since trading began.

(14) The allegation that the price is, "say \$3.72 per barrel, f. o. b. Brockton, representing Lehigh Valley mill base price of \$2.30, 4 bags 60 cents, and freight 82 cents," exaggerates prices of cement for some months before the Petition was filed, by 30 cents per barrel, and

of bags by 20 cents per barrel. It is true that any manufacturer learning in any way the price at which any cement is sold anywhere can subtract the freight and determine the price at the originating point. That has been possible in all trading since trading began, or at least since freight rates have been made uniform and public.

(15) The allegation or suggestion that there is any established price, except as each manufacturer independently fixes the price of his product from time to time, is denied. The allegation that if the established "base price" has not been charged "explanations are in order," is denied. What has happened, and will presumably continue to happen as long as the usual present conditions of competition continue, is that when any manufacturer changes his price, other manufacturers either let him take the business until he has sold his capacity, or meet his price, each independently and without any communication or agreement with others, just as in any free trading since trading began.

(16) Generally, contractors or other users do not receive the dealer's discount or price from any manufacturer. This may (or may not) be more general in the cement industry than in some other industries. It is not the result of agreement, but of the intense [fol. 117] competition and the position of the dealer in this industry. In addition to important credit considerations, any manufacturer selling contractors or other users at the dealer's discount would find that dealers would purchase cement from his competitors; a manufacturer cannot maintain employees, trucks, warehouses, etc., at each delivery point, to unload and deliver his occasional shipments, but must rely on the dealer there; the dealer controls most of the demand for cement; and the practical consequence of any manufacturer selling contractors or users at the dealer's price would be to gain one particular order and lose all future business in that locality. Many of the defendant corporations occasionally sell large contractors at the dealer's price. There is no agreement, or even universal practice, in this particular.

(17) As to the price which the public is obliged to pay to dealers who resell the cement purchased from these defendants: (i) The allegation that the public is obliged to pay "any prices the dealers may demand," is denied. The price at which dealers resell to the public is governed by the competition between dealers as in the case of all commodities sold through dealers since trading began. (ii) The manufacturer is prohibited by law from attempting to control the resale price, and the position of the buyer from the dealer is that of every such buyer since trading began, or at least since the decision of the Supreme Court in *Dr. Miles Medicine Co. v. John D. Park & Sons Co.*, 220 U. S. 373.

Thus, except that he has an exceptional advantage over the seller in being able freely to obtain without paying consideration "specific job contracts" for the future delivery of cement, the position of any buyer of cement is the same as that of any buyer since trading began.

Results

The defendants deny that any unlawful combination or conspiracy has existed or that any uniformity has resulted therefrom. They deny that the substantial uniformities in some particulars, which exist from time to time, are attributable to the operation of any scheme. They have been evolved and exist by virtue of the operation of forces which the defendants, separately or collectively, do not control. Referring to the alleged uniformities:

(1) Uniform Quality of Product. As hereinabove pointed out (pp. 27, 94), the product is commercially uniform because the purchaser requires an article which will meet the standard specifications and tests, and nothing else. Those specifications and tests are the result of work done in the past by committees, representing the United States Government, the Institute of Architects, the American Society of Civil Engineers, the Railway Engineers and the American Society for Testing Materials. They have been based upon the necessity of thus insuring the stability of great works and the safety of many people, and directed towards requiring the most perfect and reliable cement that it is practicable at any time to manufacture in sufficient quantities, changes and revisions being made from time to time with the advance of knowledge and the art. They assumed substantially their present form when President Taft on April 30th, 1912, issued an Executive order that all Portland Cement thereafter purchased by any department, bureau, or establishment of the Government, or used in connection with such [fol. 118] branches of the Government, should conform to the specifications for Portland cement adopted by the Departmental Conference at the meeting held at the Bureau of Standards on February 13, 1912, which specification was substantially the same as that previously established by the societies mentioned. These defendants aver, on information and belief, that an agreement to produce only that product would be entirely reasonable and beneficial to the public and not restraint of trade, but the matter is not the subject of any agreement and, as hereinabove pointed out (pp. 94-5), many of these defendants make and sell cement under other specifications and tests in the few exceptional instances when occasion arises.

(2) Uniform Practice of Making Sales F. O. B. Point of Delivery. As hereinabove pointed out this practice, to the extent that it exists, is not the result of any combination or conspiracy but of the intensity of competition which the practice evidences (*supra*, pp. 140, 145-6).

(3) Uniform Freight Basing Points. "Uniform freight basing points" is an expression which these defendants find difficulty in understanding. The facts as to so-called "basing points" are that they are the originating points where cement is produced in suf-

ficient quantities to affect the market. They are not the results of any combination or conspiracy, but the results of the facts that individual manufacturers located plants where nature afforded opportunity and ship large quantities of cement therefrom in competition with each of the defendant corporations. The facts have been explained (*supra*, pp. 142-154).

[fol. 118½] (4) Uniform Mill Base Prices, Notwithstanding Differences in Cost of Production by Each. So-called mill prices, as hereinabove pointed out (p. 154), are simply the balance resulting from deducting from the price the purchaser pays for cement at any delivery point, the freight from the mill. They are not uniform.

(5) Uniform Freight Rates, Regardless of Location of Mills from Which Shipments are Actually Made. This allegation is denied. The freight rates are fixed by the railroads, the Inter-State Commerce Commission and other bodies over whom none of these defendants has control. Each and all of the defendants pay, and are compelled by law to pay, whatever rates are thus fixed. None of the defendants has any other connection with freight rates except as from time to time some of them have been engaged in controversies with each other and with the railroads before the Inter-State Commerce Commission concerning them.

(6) Uniform Prices to All Dealers at the Same Points of Delivery, Notwithstanding Differences in Cost of Production and Freight Rates. No price has been made by these defendants or any of them, as a result of any combination, conspiracy, understanding, agreement, or concerted action, or otherwise than in competition with the others.

When there is a temporary shortage of cement at any point by reason of failure of transportation facilities or the like, prices at that point are not uniform. Similarly, when there is a surplus of cement available at any point, prices are not uniform, although in such instances those selling at a reduced price often resort to different ways [fol. 119] of concealing reductions in order not to bring on the inevitable general reduction which the competition forces whenever enough cement is offered at a lower price. Similarly, when circumstances produce a price movement, and while it is in progress, prices at any point are not uniform but varying. When the market price of any point has reached a particular level, the competition forces uniformity until a change occurs.

In brief, the market price of cement at any delivery point results from a complex, comprising the pressure of the competition (resulting from commercial homogeneity and surplus production capacity) pressing down from above, with costs and a desire for profits pressing up from below, giving a balance from time to time disturbed and changed by the immediate demand and supply. The individual cost of production of a particular manufacturer, or his individual freight rates, cannot control the market price, but only the question whether he individually can afford to sell at a particular point or must let the business there go to his competitors.

To the extent thus indicated, the market price of cement at any delivery point is uniform at any particular time, but it is uniform in accordance with the operation of economic laws and not otherwise.

(7) Uniform Discounts Allowed to Dealers. What is true of prices is substantially true of discounts. To the extent that they are uniform at all, they are uniform because of the competition which the uniformity evidences. The discount allowed dealers depends very largely upon what discount any dealer is able to get at any particular point. A manufacturer's cement must generally be unloaded and delivered by a dealer. A dealer's custom is particularly [fol. 119½] valuable to the cement manufacturer by reason of the demand he controls and the competition. A dealer will not buy from a manufacturer allowing him only two cents, when he can get the same thing from a manufacturer allowing him five cents. Accordingly, a uniformity is worked out by the competition.

(8) Uniform Prices to Contractors at the Same Point of Delivery Notwithstanding Differences in Cost of Production and Freight Rates. Such uniformity of price as exists has already been explained (pp. 27-8, 54-69). It applies to prices to contractors, to dealers and to others.

(9 & 10) Uniform Charges for Bags—Uniform Credit Allowances for Bags Returned. All manufacturers in one form or another, allow for bags returned whatever they have charged for them. This is not a result of any combination or conspiracy, but the result of the operation of economic laws, including particularly the competition as hereinabove explained (p. 157); and these defendants, upon information and belief, respectfully aver that if there were agreements concerning the amount to be charged and allowed for bags, it would serve merely to make more pointed the competition in the commodity and be entirely reasonable and not in restraint of trade.

(11) Uniform Differential Allowed between Prices Quoted Dealers and Prices Quoted Contractors. This is covered by the answer to the alleged uniformity, No. 7, the difference being in the thing for which allowance is made.

(12) Uniform Cost-Accounting Systems. The cost-accounting systems employed by these defendant corporations are not uniform. [fol. 120] but diverse. A uniform accounting system was developed and placed before these defendant corporations to accept or reject as each desired. Only four of the nineteen have used it. There is no uniform accounting system and if there were one used by all defendants as a matter of agreement, it would represent a reasonable and helpful industrial improvement and not restraint of trade (supra, pp. 82-3).

The allegation that "another result of said unlawful combination and conspiracy is the control and regulation of production" is denied. There is no combination or conspiracy and no control or regulation of production. The figures and chart hereinbefore produced show.

ing the actual production of each of the defendant corporations, demonstrate the contrary (*supra*, pp. 6-8).

The allegation that the defendants met frequently and discussed the probable demands for cement is denied. At meetings of the Cement Manufacturers' Protective Association, held less than one a month and attended by representatives of only some (averaging two-thirds) of the members, the probable demand for cement has never been mentioned in any way. The Portland Cement Association meets only three times a year, and at its meetings there has been no mention of the probable demand for cement for many years, except in some entirely abstract way, as representatively illustrated in the address of the President of the last meeting attached hereto (Exhibit VI, p. 247).

As to whether "it is a simple matter to produce only what it is believed the market will absorb without breaking prices," these defendants cannot answer except by opinion, because the allegation is too far removed from the experience of any of them. Each of the [fol. 120½] defendant corporations has produced all the cement it believed it could sell by its utmost efforts, so far as circumstances beyond its control have not interfered to prevent manufacture. Each of the defendant corporations has found its beliefs concerning the market from time to time mistaken, resulting in producing more cement than it has been able to sell. The introduction of an additional factor "without breaking prices," does not seem to make it any more "simple," but none of these defendants has ever reckoned with that factor. In fact the conspicuous characteristic of cement prices during more than twenty-five years has been repeated "breaking," as illustrated by the "breaking" of the prices of these defendant corporations about 50 cents a barrel in the last few months.

The defendants deny that the defendant corporations or any of them have materially or at all restricted production, and aver that on the contrary they, and each of them, have produced all the cement they could make and sell, except during the period of Governmental restrictions or when limited by other causes wholly beyond their control. The production and shipments of the defendant corporations in 1920 were materially greater than ever before.

The allegation that "another result is the unconscionable prices which have been charged for Portland cement" is denied. Prices have never resulted from any combination or conspiracy. The facts have been explained (pp. 9-15; 54-69).

The allegation of "enormous profits" is denied. The facts have been explained (pp. 16-21).

The allegation that the housing shortage results from an unlawful combination and conspiracy in Portland cement is denied. There [fol. 121] is no combination or conspiracy. The total difference in the cost of building occasioned by a change of ten cents per barrel in the price of cement would be about \$5 to each \$10,000; and the prices of any cement manufacturer in this section for some months prior to the filing of the Petition were 10 cents below or above the price fixed by the Government as discouraging in 1918 (*supra*, pp. 30-1; p. 67).

The Alleged Menace of Continuing the Combination and Conspiracy

The defendants admit that they are engaged in carrying on, and each defendant corporation is engaged in carrying on, their and its activities substantially as during the periods since they respectively have been in operation. They, and each of them, deny that their acts or any of them constitute an unlawful or any combination and conspiracy in restraint of trade or that the continuance of them, or any of them, constitutes an immediate or any menace.

The credit information and information concerning "specific job contracts" have no purpose or result except to enable each of the defendant corporations to know, in the only possible way, the extent of its own contract obligations for future delivery of cement, and to protect itself, if it wants to, against being defrauded. The freight books have no purpose or effect other than the avoidance of economic waste, the prevention of errors, and the carrying out of the policy and the laws of the United States with respect to freight rates. The only other collective activity is the collection and distribution of statistics of production, commitments for future delivery, shipments and stock on hand.

[fol. 121½] That knowledge by a manufacturer of the extent of his obligations, or the financial position of delinquent debtors seeking more credit, or official freight rates, or the existing supply of the thing he manufactures, constitutes a menace, is denied.

But these defendants join in the prayer for the early adjudication of the matter.

These defendants deny that prevailing prices are high, or that there has been any elimination of competition, or that prevailing prices result therefrom, or that unless the Court issue an injunction, either preliminary or final, any irreparable or other injury to the public or any portion of it will be caused by any act of these defendants or any of them.

Having fully answered the Petition and all the allegations thereof, these defendants and each of them, pray that they and each of them may be hence dismissed with their and each of their reasonable costs and charges in this behalf most wrongfully sustained.

Cement Manufacturers' Protective Association, The Atlas Portland Cement Company, Alpha Portland Cement Company, Bath Portland Cement Company, Coplay Cement Manufacturing Company, Dexter Portland Cement Company, The Edison Portland Cement Company, Giant Portland Cement Company, The Glens Falls Portland Cement Company, Hercules Cement Corporation, Lawrence Cement Company, Lehigh Portland Cement Company, Nazareth Cement Company, Penn-Allen Cement Company, Pennsylv-
[fols. 122 & 123] vania Cement Company, The Phoenix Portland Cement Company, Security Cement and Lime Company, The Vulcanite Portland Cement Company, E. P. Alker, C. Raymond Hulsart, Miss M. B. Phalen, Marion S. Ackerman, Defendants, by Archibald Cox, Solicitor for

Defendants Above Named, 233 Broadway, New York, N. Y. Knickerbocker Portland Cement Company, Inc., by William Wallace, Jr., Solicitor for Defendant Knickerbocker Portland Cement Company, Inc., 14 Wall Street, New York, N. Y. Archibald Cox, George T. Buckingham, Joseph P. Cotton, Louis H. Porter, Thurlow M. Gordon, William Wallace, Jr., of Counsel for Defendants.

[fol. 123½]

EXHIBIT IV TO ANSWER

Plan, Constitution, and By-laws of Cement Manufacturers Protective Association

Conspicuous among the evils from which every manufacturer of Portland Cement has long suffered have been certain notorious abuses arising from what amounts to fraudulent misrepresentation. The most common and flagrant instances are those which have to do with misrepresentation concerning contracts (known as "specific job contract"), competitors' acts, and financial responsibility.

Although these abuses are too well known to require elaboration, it may be desirable to look at an illustration of each, with a view to determining whether it is practicable in a measure to correct them:

(1) It has become common, for example, in cases of jobs in fact involving the use of, say, a thousand barrels of cement, for purchasers to contract with each of several manufacturers for, say, two thousand barrels of cement to be used on that specific job. This pernicious practice results in purchasers obtaining what, as a practical matter, amounts to an option extending over a long period; and, in the aggregate, such options induced by, and based on misrepresentation, impose on the manufacturer one-sided, uncertain obligations covering a considerable portion of his output, frequently curtailing his business and resulting in loss.

It is apparent that such abuses could not exist if the truth were known. If the manufacturer knew the facts concerning the job, the [fol. 124] amount of cement needed, whether his or some other cement was being used thereon, he would obviously be in a position to escape the disastrous consequences of such misrepresentation. The plan hereinunder outlined is designed to make the truth available and thus defeat such misrepresentations and their consequences.

(2) The second form of misrepresentation is illustrated by the common experience of every manufacturer of Portland cement with statements made to him not only by dealers but often by his own salesmen concerning competitors' practices, with the result that the manufacturer is deceived and imposed upon. In the following plan it is not proposed to provide the fullest relief against such misrepresentations, because reports of outstanding or active offers or quotations may be objectionable, but it is proposed to give the manufacturer an opportunity of checking the representations of dealers and

salesmen by including with the information as to specific contracts, the price at which these past transactions have been closed, so that false statements may become less frequent.

(3) As to that kind of misrepresentations which have to do with credits, the plan explains itself. Here, again, the correction of the evils resulting from the misrepresentation is to be sought in making the truth available.

(4) In addition to the correction of these abuses by meeting misrepresentations with the truth to the extent indicated, the plan contemplates the giving of certain statistical information concerning the past, which has heretofore been available in less convenient form and is included because it may be included without much additional inconvenience to anyone.

(5) The plan further contemplates the compilation and publication of freight rates to relieve each manufacturer of the great burden of keeping track of this necessary information.

[fol. 124½] The mechanism contemplated consists of reports by members, handled by a Secretary, with sufficient clerical help, under control of the Association.

Meetings are to be held to deal with the business of the Association as outlined herein. To prevent any possible misconception concerning the nature or activities of the Association, all its proceedings at such meetings will be stenographically reported and preserved, with its records and correspondence, so that the whole truth concerning the Association can at any time be made plain.

[fol. 125]

Constitution

Article I

Name

The name of the Association shall be Cement Manufacturers Protective Association.

Article II

Members

Section 1. Any corporation, firm or individual engaged in the manufacture of Portland cement is eligible for membership.

Section 2. Any corporation, firm or individual eligible for membership may become a member of the Association upon being proposed by two members and elected by a majority of the members.

Section 3. Any member may resign at any time upon first discharging any indebtedness to the Association.

Section 4. Application for membership and resignations from membership must be transmitted in writing to the Secretary.

Section 5. Any member may be expelled for failure to pay any assessment within thirty days after payment is due or for failure to conform to the Constitution and By-Laws of the Association by the vote, expressed by secret or open ballot, of two-thirds of the members of the Association, provided two weeks' notice of the proposed action and an opportunity to be heard shall have first been given.

[fol. 125½]

Article II

Objects

The objects of the Association are the collection and dissemination of such accurate information as may serve to protect each manufacturer against misrepresentation, deception and imposition and enable him to conduct his business exactly as he pleases in every respect and particular, free from misdirection by false or insufficient information concerning the matters following, to wit:

- (a) Information concerning credits.
- (b) Information concerning contracts which have been made for the delivery of cement, sufficiently complete to enable the manufacturer to protect himself against spurious contracts and like transactions induced by misrepresentation.
- (c) Information concerning freight rates on cement.
- (d) Statistical information as to production, stocks of cement and clinker on hand, and shipments.

Article IV

Meetings

Section 1. The regular meetings of the Association shall be held the third Monday of each month or at such dates and such places as the Association shall name. Due notice of meetings shall be sent to each member at least five days in advance.

Section 2. A majority of the members when present at any meeting shall constitute a quorum. Each membership shall have one vote.

Section 3. The meeting held in the month of January, in each year, shall be the Annual Meeting of the Association.

[fol. 126]

Article V

Officers

Section 1. The officers shall be a President, Vice President, Secretary and Treasurer.

Section 2. All officers, except the Vice President and Secretary, shall be elected at the Annual Meeting by the majority of the votes of those present and shall hold office for one year, or until their successors have been duly elected.

The Vice President and Secretary shall be elected by the Association for such term as it may determine and may receive a salary, fixed by the Association.

Article VI

Expenditures and Funds

Section 1. The Association shall have power to employ such persons, incur such indebtedness, and fix such assessments, as may appear necessary to carry out the objects of the Association. All assessments shall be distributed among and paid by the members pro rata according to shipments during the preceding year from or into the territory covered by the service of the Association.

Article VII

Amendments

Section 1. This Constitution may be amended as follows: All proposed amendments must be in writing, signed by at least three [fol. 126½] members, and presented to the Secretary at least two weeks before the next meeting of the Association. In the notices of this meeting, the proposed amendment or amendments shall be presented. At the meeting, the proposed amendment or amendments may be discussed or amended. They shall then be sent out to letter ballot. If two-thirds of the total membership shall, by letter ballot, vote in favor of the amendment or amendments, it or they shall be adopted.

Article VIII

Freedom of Trade

No member of the Association shall enter into any arrangement, agreement or understanding of any nature or kind whatsoever, the object of which is to restrain trade, limit competition or accomplish any purpose contrary to the spirit or letter of the law or contrary to the objects of the Association, as set forth in this Constitution, and membership in the Association shall be recognized as implying that the member is absolutely free to conduct his business exactly as he pleases in every respect and particular.

Full and complete minutes of all matters discussed at any meeting of the Association shall be kept and such minutes, together with all records, files and correspondence of the Association, shall be preserved and held open at all times to any public official or other person who may have any legitimate reason for desiring to be completely informed concerning any or all the activities or transactions of the Association.

Section 1. President.—The President shall preside at all meetings of the Association, and, in case of the equal division of the members [fol.127] voting on any question cast the deciding vote. He shall also have power to call the Association together at such time and place as he may select and, upon the written request of five (5) members, he shall call a special meeting of the Association.

He shall see to the enforcement of the provisions of the Constitution and By-Laws and shall carry into execution all resolutions of the Association.

Section 2. Vice President.—The Vice President shall perform such duties in connection with the collection and dissemination of the information which it is the object of the Association to accomplish as may be assigned to his office by the Association.

Section 3. Treasurer.—The Treasurer shall perform the duties of the President in the absence of the latter, collect and receive all moneys of the Association and deposit the same in a depository to be designated by the Association, authorized to make payment from the funds of the Association on deposit with it as directed by resolutions of the Association. He shall keep proper books of account, which shall be open at all times to the inspection of the members of the Association, and at the close of his term of office he shall deliver to his successor all moneys, books, papers and other valuables belonging to the Association which shall be in his custody or possession.

Section 4. Secretary.—The Secretary shall keep a careful, full and complete record of all the meetings, discussions and transactions of the Association, give notice of all meetings of the Association, examine all bills, conduct the correspondence, collect, prepare and distribute the information contemplated by the Constitution as pre-[fol. 127½] scribed by these By-Laws, and perform such other duties as may be assigned to his office by the Association.

Section 5. Provision of Funds.—All assessments shall be fixed by majority vote of the Association and distributed among and paid by the members pro rata according to shipments during the preceding year from or into the territory covered by the service of the Association.

Section 6. Voting Power.—At all meetings, each membership shall have one vote. Members may be represented at any meeting by authorized delegates, who shall be entitled to full rights and privileges of the members they represent, but only one vote shall be cast on behalf of each member.

Section 7. Meetings.—The Association shall meet monthly, the time and place of each meeting to be fixed by the Association. Special Meetings may be called whenever the President shall deem it necessary or upon request of five (5) members. A majority of all the members shall constitute a quorum. The order of business shall be as follows:

1. Roll call.
2. Minutes of last meeting.
3. Election of new members.
4. Reports.
5. Unfinished business.
6. New business.
7. Election of officers.

Section 8. Collection and Distribution of Information.—On or before the fifth day of each calendar month, each member shall forward to the Secretary the following:

(1) A statement of all accounts outstanding sixty (60) days or more and unpaid, giving the name and address of the debtor, total [fol. 128] amount unpaid, and the time overdue specified by months.

A statement of all bills receivable on hand, giving name of purchaser, amount, date payable, and detail of account covered by note.

A list of accounts in attorney's hands for collection.

2. A statement of contracts which have been made and are in effect on the last day of the preceding calendar month, giving the following information with respect to each contract, namely, date of contract, the purchaser, the consumer, a full description of the work upon which the cement is to be used, the amount contracted for and amount yet to be delivered, the price, and the expiration date of contract. In addition to the foregoing monthly statement of contracts, as contracts are made during the month, the Secretary shall be notified as soon as possible.

(3) A statement of all contracts cancelled or reduced in amount during the preceding month.

(4) A statistical statement of production and shipments during the preceding calendar month and stock of cement and clinker on hand on the last day of the month.

Upon the receipt of the foregoing monthly statements, the Secretary shall forthwith put all the information contained therein in convenient form as directed by the Association and distribute the information thus prepared to the members reporting.

The Secretary shall also transmit the information thus prepared to the person performing corresponding duties in any other Association, collecting and distributing like information within the purview of the Constitution, and receive and distribute to the members of this Association such information transmitted from such other Association, as may be from time to time directed by this Association.

The Secretary shall prepare and distribute among the members a complete schedule or schedules of freight rates on cement, giving the rates for rail, water and rail and water shipments. Each member shall from time to time notify the Secretary of all changes or other facts of importance connected with such rates. The Secretary shall immediately advise all members of the changes in

130 1/2

Form 25

Exhibit VII to Answer—Form 25

From VULCANITE PORTLAND CEMENT COMPANY

(Date) 3/1/21 Return to
Cement Manufacturers Protective Association
19 West 44th Street, New York.

SYMBOLS
* — Bag Balance
\$ — Disputed Account
End. — Endorsed Note
Gar. — Guarantee Account
Ren. — Renewal
Penewals

Receivable
Bills Receivable
Endorsed
or guar-
anteed
Note
due Amount
in this
column

Unpaid Accounts

Customer	Town	4 months or more old	3 months old	2 months old	Ledger Trade balance covers	Date due	Note Amount in this column	Note due	Re- pla- na- tion
Danks Wood Products Co.	Plymouth, Pa.	573	...	...	573	Jan. '21	4/6/21	2481	
Win. Curry's Sons Co.	Key West, Fla.	...	...	...	...	...	...	...
Chas. Dublin	Dayton, Ohio	...	...	330	330	...	...	...
Engineering Supply Co.	Jersey City, N. J.	...	318	115	433	...	...	...
Granville & Behrman	Oswining, N. Y.	...	560	...	560	...	...	...
J. M. Handricks & Co.	New Brunswick, N. J.	...	...	325	325	...	...	...
F. W. Jackson & Sons, Inc.	Good Ground, L. I.	...	607	...	607	...	...	...
Juniata Supply Co.	Huntington, Pa.	541	...	...	541	...	...	...
Mansfield Lumber Co.	Mansfield, Mass.	119	...	...	119	...	...	...
E. R. Pusey Co.	Wilmington, Del.	...	...	...	...	Apr. '16	6/1/21 to	186	
Riverside C. & B. Co.	Lyndhurst, N. J.	...	...	...	1034	...	9/1/21	...	
Stewart Willey Co.	New York, N. Y.	486	...	...	486	...	...	Oct. '20	3/6/21 1000

Please fill in on typewriter
Report in dollars only

RECEIVED
Mar. 7, 1921
Comm't. Mfg. Pro't. Ass'n

SYMBOLS
 *—Bag Balance
 †—Disputed Account
 End.—Endorsed Note
 Gar.—Guarantee Account
 Ren.—Renewal

Exhibit VIII to Answer—Form 15

CEMENT MANUFACTURERS PROTECTIVE ASSOCIATION
 19 W. 44th Street, New York.
 List of Unpaid Accounts and Bills Receivable
 As of March 1st, 1921.

Customer	Co.	Town	UNPAID ACCOUNTS				BILLS RECEIVABLE		Amt.	I. H. A.	Explanation
			4 months or more old	3 months old	2 months old	Ledger balance	Trade accept covers	Note covers			
Stapleton Lumber Co.	21	Stapleton, N. Y.									
Sturatt-Fields, Inc.	18	Dorchester, Mass.	32943	5364	61	39158	259				
State Arsenal	8	Harrisburg, Pa.				61					
State H'way Department	18	Dover, Delaware	1060			1060					
State Penitentiary	8	Pittsburg, Pa.				8277					
Steels Alderfer Co.	20	Cuyahoga Falls, O.	174			174					
Sterling Stone Co.	20	Franklington, N. C.	173			173					
Stewart, N. H. & Co.	20	Fountain Inn, S. C.	606			606					
Stewart, R. T. & C. D. Cont. Company	18	Easton, Pa.	700	253		953					
Stewart Willey Co.	19	New York City	496			496					
Stoncall, Frederick R.	18	Wyoming, N. J.	103			103					
Stork, Charles T.	0	New York City									
Stratton & Bragg Co.	6	Petersburg, Va.								499	
Strever Lumber Co.	3	Ballston Spa, N. Y.		199	569	1599		Jan.	257		
Strong Hdwe. Company	20	Burlington, Vt.	2053			2053		"	Apr. 12	257	
Surety Engineering Co.	12	New York City									
Sussex Paving Company	0	"	12	640	606	606					
Sutton & Corson	25	Ocean City, N. J.				4329					
Swanger, W. E. & Son	16	Lebanon, Pa.	861			1380					
Taunton Tanning Co.	5	Taunton, Mass.	304	649		953					
"	8	"	736			736					
Templeton, Charles A.	20	Waterbury, Conn.	6760			6760					
Terry & Touch	21	New York City		7981	7281	1132		Dec.	Mar. 27	5000	
Thompson Starratt Co.	0	"		1132		1132					
Thompson & Sons, Inc., GA	18	Hurlock, Md.	132			132					
Three Points Prod. Co.	1	Albany, N. Y.	636			636					
Tuck, C. H.	20	Clyde, N. Y.	*6			6					
Tyler Underground Heating Company	0	Pittsburgh, Pa.									
Union Lumber Company	20	Canal Dover, Ohio		229		524				358	
Valley Forge Magnesia Company	0	Phoenixville, Pa.									
Van Ness Lumber Co.	11	Little Falls, N. J.									
Vare, E. H.	18	Philadelphia, Pa.									
Vaughan Construction Co.	2	Shawville, Va.		436	566	1992					
Venplank, W. S.	18	White Plains, N. Y.	1669			1669					
Vincola & Ennis	11	Long Branch, N. J.	409			409					
W. M. R'way Acetg. Dept.	12	Baltimore, Md.		548	548	548					
Wagner, Clara E.	22	Philadelphia, Pa.									
Walsh, Charles V.	2	"	660			660					
"	16	"	378			1095					
"	17	"	1617			1617					
"	21	"		451	451	451		1917	3-1-21	21	
Walsh & Sons Co., R.	11	"									
Walton, Anton Sup. Co.	12	Dayton, Ky.	1690			1699					
Washington-Excess Bldg. Trustees, Owners—c/o	5	Boston, Mass.									
Watchung Stone Co.	15	Plainfield, N. J.		176	2433	2433					
Water, D. F.	9	Philadelphia, Pa.			830	830					
"	11	"	265	1309	265	265					
West Construction Co.	20	Baltimore, Md.	1566			2875					
Westley Lumber Co.	6	Westerly, R. I.							Apr. 20	1371	
Westfall, Z.	20	Buchanan, W. Va.		10		10					
Whelan, Jas. S. & Co.	16	Philadelphia, Pa.	604			1684					
Whitman, W. S.	18	Easton, Pa.			44	44					
Wiley, R. E.	18	Greenwood, Del.				169					
Williamson, C. F.	11	Media, Pa.	169			621					
Williamson Lbr. Co.	8	Rollwood, Pa.			23	23					
Wilson Lumber Company	20	Wilkes, Pa.	49			49					
Winnor Brothers	12	Williamsport, Pa.									
Wintnits, Albert	0	Brooklyn, N. Y.									
Wise & Son, Frank E.	0	New York City									
Womack & Webster Constr. Co.	3	"									
Wood, Theo. C.	18	Seranton, Pa.	364			364					
"	11	New York City									
"	15	"									
"	20	"									
"	21	"									
Wood Lbr. Co., P. W.	15	Worcester, Mass.		352	550	1944					
Woodbridge Lbr. Co.	15	Woodbridge, N. J.			476	828					
Woodruff Brothers	8	Old Forge, N. Y.	139			139					
Wright, Chas. W. Co.	5	Lynn, Mass.	180			180					
Wyalsing Hay Company	15	Wyalsing, Pa.	33			33					
"	18	"	416			417					
Zackaryaz, W.	9	Berea, Ohio	222			222					
Zellner, LeRoy	11	Coplay, Pa.	72	63	18	153					

1857 Bankruptcy

Renewal
 " "
 " "

335

freight rates by issuing supplements, revisions or otherwise, as may be most convenient.

Section 9. Amendment of By-Laws.—Amendment to these By-Laws may be proposed at any regular or special meeting of the Association, provided that it has been presented to the Secretary, signed by three (3) members, and a copy sent to each member in the notice of the meeting, and such proposed amendment may be discussed at such meeting and adopted by a two-thirds vote of those present, if it is in accord with the Constitution of the Association.

[fols. 129 & 130] Exhibit V, the report of the General Manager of the Portland Cement Association for the year ending October 30, 1920, a book of 43 pages of fine type, and Exhibit VI, the minutes of the spring meeting of the Portland Cement Association held at Chicago May 16, 17 and 18, 1921, a book of 93 printed pages, not printed by consent.

(Here follow Exhibits VII and VIII to Answer, marked side folio pages 130½ and 131)

[fol. 131½] EXHIBIT IX TO ANSWER, FORM 20

Form 20.

From Bath Portland Cement Co. June 12, 1919.

Contract No. 423. Dated June 5, 1919.

Purchaser, John P. Callaghan, Inc.

Address, Harrison, N. J.

Work, as described on the back hereof. Over.

Location, Newark, N. J.

Contract, William Bal Company, Newark, N. J.

No. bbls., 1,500. Price, 2.66. Del. pt. Newark, N. J.

Date of Exp'n, 12-31-19.

(Back)

Give full and complete description below of the work, viz.—If a building give dimensions, character of constructions, etc. If paving state what kind, giving yardage, thickness, mix, etc. Give exact locations and make description specific.

For use on Factory Bldg., John Street and Railroad Ave., Newark, N. J.

Received Jun. 14, 1919. Cem't Mfg. Pro't Ass'n.

[fol. 132] EXHIBIT X TO ANSWER, FORM 21

Form 21.

Company, Pennsylvania Cement Company.

Contract Number 700. Date 3/10/21.

Delivery Point, Hoboken, N. J.

- | | |
|--|-------|
| 1. Completed ✓. | |
| 2. Cancelled | Bbls. |
| 3. Decreased | Bbls. |
| 4. Increased | Bbls. |
| 5. Leaving balance due..... | Bbls. |
| 6. Date of expiration extended to..... | |

(Back)

Received Mar. 11, 1921. Cem't Mfg. Pro't Ass'n.

Instructions

First. Whenever entire amount of contract has been shipped, check only (✓) in space opposite "completed" (Line 1).

Second. If entire amount due on contract is cancelled enter number of barrels cancelled on Line 2.

Third. If portion of contract is cancelled, state number of barrels cancelled on Line 3 and balance still due on Line 5.

Fourth. If amount of contract is increased state number of barrels of increase on Line 4, and balance still due on Line 5.

(Here follow Exhibits XI, XII, and XIII to Answer, marked side folio pages 132½, 133, and 133½.)

[fol. 134] EXHIBIT XIV—FORM 10

(Not reproduced on account of its bulk. See p. 110.)

132 1/2

Exhibit XI to Answer—Form 7

CEMENT MANUFACTURERS PROTECTIVE ASSOCIATION
CONTRACTS RECEIVED AUGUST 1ST, 1921.

Form 7

Sheet #2577
New York
D-554Walter Bradley & Co.,
Fulton, N. Y.

Springfield, N. Y.

Concrete Dam on Cattaraugus Creek
for power purposes for the Village of
Springville, N. Y. (Walter Bradley &
Company)

Alpha

7-29-21

12-1-21

8000*

2.91 D

Pennsylvania
OTR-12078Robt. McCreath & Co.,
Harrisburg, Pa.

Harrisburg, Pa.

Constr. of Boas High School, Harris-
burg, Pa. (C. W. Strayer)

Atlas

7-25-21

12-31-21

3000*

2.88 A

AS-576-70

Donora Constr. Co., Inc.,
Donora, Pa.

New Salem, Pa.

Penna. State Highway Work at New
Salem, Fayette County, Pa. (Par-
chaser)

Edison

7-25-21

7-31-22

11000*

2.60 C

763

R. F. Moyer,
Schuylkill Haven, Pa.

Schuylkill Haven, Pa.

Penna. State Highway Route #140-141,
Schuylkill Haven, Pa. (W. C. Evans)

Bath

7-15-21

12-31-21

3000*

2.93 C

Philadelphia
328 1388South & Caven,
Philadelphia, Pa.

Philadelphia, Pa.

Improvements to the House of Correc-
tion, Holmesburg, Pa. (P. A. Havens
& Company)

Allentown

7-27-21

12-31-21

500*

2.93 A

New Hampshire
B-11219Knowlton & Stone Co.,
Keene, N. H.

Keene, N. H.

Paving Court & South Main Sts.,
Keene, N. H. Owner—City of Keene,
N. H. (Portland Construction Com-
pany, Inc.)

Atlas

7-27-21

11-1-21

5000*

3.21 K

Virginia
CTR-12073Parkersburg Bldrs. Matl.
Co.,
Parkersburg, W. Va.

Parkersburg, W. Va.

Paving South Side, Parkersburg, W.
Va., from East Street Bridge to Fort
McNeil for County Commissioners.
(Kennedy Constr. Co.)

Atlas

7-28-21

12-31-21

1500*

2.75 K

CANCELLATIONS AND OTHER CHANGES TO BE NOTED ON CONTRACT REPORT

New York
SB-10258
7445Atlas
LehighDowning Brothers, Locust Valley, N. Y.
Frank E. Wise & Son, New York City.Cancel 1000 bbls. M
Cancel 2000 bbls. FPennsylvania
CD-753Alpha
Nazareth
Nazareth
DexterEast Stroudsburg Lbr. Co., Ansonmink, Pa.
Warren Brothers Co., Blue Ball, Pa.
Warren Brothers Co., Brandy Camp, Pa.
Central Clay & Prod. Co., Wilkes Barre, Pa.Completed, Cancel 956 bbls. D
Cancel 12236 bbls. C
Cancel 8765 bbls. C
Completed, Cancel 7750 bbls. A1381
1660
1500-1619
New JerseyVulcanite
AlphaEngineering Supply Co., Jersey City, N. J.
Daniel June, South River, N. J.Completed, Cancel 1782 bbls. K
Completed. K

5398

CD-781

Maine

B-11177

Atlas

I. M. Furbush, Princeton, Maine.

Cancel 360 bbls. D

Rhode Island

B-11149

Atlas

Henry C. McDuff, Est., Pawtucket, R. I.

Cancel 556 bbls. E

District of Columbia

P-11120

Atlas

Rosslyn Steel & Cement Co., Washington, D. C.

Cancel 30575 bbls. H

West Virginia

W-857

Alpha

Brownsville Constr. Co., Lowville, W. Va.

Completed, Cancel 733 bbls. J

Exhibit XII to Answer—Form 8

Form 8

CEMENT MANUFACTURERS PROTECTIVE ASSOCIATION SUMMARY OF CONTRACTS AUGUST 1ST, 1921.

Company	Contracts Closed Since July 30th Report		Contracts Cancelled Since July 30th Report		Restatements	
	Number of Contracts	Total Contracts in Bbls.	Number of Contracts	Total Contracts in Bbls.	Increases	Decreases
	Today	To date	Today	To date	Today	To date
Allentown	1	500	....	....	....	....
Alpha	1	8000	2	1689	1689	....
Atlas	3	9500	4	32500	32500	....
Bath	1	3000	....	....	....	....
Coplay	....	....	....	....	....	....
Dexter	....	....	....	....	....	....
Edison	1	11000	1	7750	7750	....
Giant	....	....	....	....	....	....
Hercules	....	....	....	....	....	....
Knickerbocker	....	....	....	....	....	....
Lawrence	....	....	....	....	....	....
Lehigh	....	....	....	....	....	....
Nazareth	....	....	1	2000	2000	....
Penn Allen	....	....	2	21001	21001	....
Pennsylvania	....	....	....	....	....	....
Phoenix	....	....	....	....	....	....
Vulcanite	....	....	1	1782	1782	....
Total	7	32000	11	66722	66722	....

83 1/2

Exhibit XIII to Answer—Form 9

FORM 9

CEMENT MANUFACTURERS PROTECTIVE ASSOCIATION
MONTHLY SUMMARY OF CONTRACTS FOR FIRST FOUR MONTHS

Company	New Contracts		Cancelled Contracts		Reinstatements and	Decreases
	No. to Date	Bbls. to Date	No. to Date	Bbls. to Date	Increases to Date	
Allentown	17	76400	3	2100	21519	..
Alpha	104	306227	89	475889	74150	..
Atlas	209	614740	107	238522	19596	..
Bath	37	191400	20	133296	.....	..
Coplay	31	158536	90	114041	.....	..
Dexter	13	85100	34	90802	8977	..
Edison	19	82586	26	133746	3000	..
Giant	42	230325	36	163617	.....	..
Hercules	12	13600	21	59260	17000	3
Knickerbocker ..	20	125781	4	4693	13852	2
Lawrence	28	113597	40	77018	.....	..
Lehigh	176	421175	158	556766	73791	2
Nazareth	22	166600	66	156606	.....	..
Penn-Allen	29	51450	14	16646	5061	..
Pennsylvania ...	50	265735	142	434069	27284	3
Phoenix	8	12400	17	50349	2000	..
Vulcanite	46	189441	40	92428	14099	..
Total	863	3105093	907	2799848	280329	13
		280329		134782		
		3385422		2934630		

EXHIBIT XV TO ANSWER— FORM 1

Form 1

Cement Manufacturers' Protective Association

19 West 44th Street, New York

Date: June 13th, 1921.

Cement Manufacturers' Protective Association, 19 West 44th Street,
New York.

GENTLEMEN: We desire to call attention to specific contract No. 5437 for Vulcanite Brand of Cement for 2,500 barrels sold to Engineering Supply Co. for delivery at Weehawken, N. J. with remarks as indicated by check marks herein.

Check

- 1. This contract appears to be a duplication of — Com-
 ✓ pany's No. —.
- 2. We believe that if this job is investigated it will be
 found that the amount contracted for is more than
 the quantity required.
- 3. We know of no such work under construction or con-
 templated.
- 4. The construction work covered by this contract was
 completed — months ago.
- 5. We are informed that the company shown as the con-
 tractors on this work have never been awarded a con-
 tract.
- 6. We are informed that the work in question has been in-
 definitely postponed, for the reason that —.
- [fol. 134½]
- 7. We have reason to believe that cement under this con-
 tract is being diverted to other work.

Yours truly, Lehigh Portland Cement Company. B. L.
 Swett, Eastern Sales Manager.

Received Jun. 14, 1921. Cem't Mfg. Prot. Ass'n.

(This form to be used by members in calling the attention of the Association to "Specific Contracts" upon which they desire further information.)

[fol. 135] EXHIBIT XVI TO ANSWER—FORM 2

Form 2

Cement Manufacturers' Protective Association,

19 West 44th Street, New York

Buildings

Sep. 23, 1920.

No. 1345-1399. Brand, Dexter. Delivery Point, New York City.
Description of Work, Apartment house, 188th St. & St. Nicholas Ave.

Location, New York City. (St. and No.) ———.

Contractor, La Sala Constr. Co. Architect, ———.

Purchaser, Theo. C. Wood, New York City.

Total Am't of Contract, 600 bbls. Nothing shipped.

Date of contract, January 2nd, 1920.

“ “ expiration, 12-31-20.

Has above contractor been awarded this work? —.

Has work started? —. If so, when? —.

Is foundation in? —. Is superstructure started? —.

How many floors to be finished. —.

How much cement did each floor take? —.

Give dimensions of building —.

What kind of construction—steel, reinforced concrete, etc.? —.

[fol. 135½] How much cement does contractor say he has used?

—.

How much more cement does contractor say he will use? —.

What other brands are being furnished for this work? —.

If work has not started state date it will go ahead? ————.

Estimate date of completion ————.

Is any of the cement under this contract to be furnished to subcontractors? —.

How much cement dealer's books show has been used? —.

Source of information, Mr. Elliott of the Theo. C. Wood Co. states the above job was completed April 1, 1920. Mr. Elliott showed auditor his records showing that 1,527 bags of cement were delivered & used on this work.

Remarks: ———.

Date Nov. 14, 1920.

(Signed) Irving Oberman

This Form is to be used by the Auditor on the Work.

(Back:) Received Nov. 16, 1920. Cem't Mfg. Pro't Ass'n, Per

— — —.

[fol. 136] EXHIBIT XVII (a) TO ANSWER—FORM 5

Form 5

Cement Manufacturers' Protective Association,

19 West 44th Street, New York

Audit No. 5276.

Contract Vulcanite-5137.

Date June 29th, 1921.

Purchaser: The Engineering Supply Company, Jersey City, N. J.
Work: Paterson Plank Road, Weehawken, N. J.

Contractor: Edward J. Flaherty.

Contract: June 6th, 1921—2,500 barrels. Nothing shipped.

GENTLEMEN: The work covered by the above contract has been investigated and the facts as reported by the auditor are given below:

Edward J. Flaherty has been awarded a contract to pave above road.

The contractor stated that he has contracted for 2,500 barrels of cement with the Engineering Supply Company of Jersey City, N. J.

The job has not been started to date.

Auditor's Estimate

2,720 lin. ft. of bluestone curb.....	55 barrels.
3,500 sq. yds. of base 8" thick mix. 1:1½:3.....	1,500 "
7,500 sq. yds. of grouting.....	685 "

Approximate Total Requirements..... 2,240 barrels.

[fol. 136½] Date of Audit, June 25th, 1921.

Kindly advise us whether the foregoing accords with your information and as to the standing of this contract. Unless we hear from you to the contrary by — this audit will be considered complete and so reported.

Cement Manufacturers' Protective Association, Per ————.

(This form will be used by the Association when submitting information on an audited contract to the manufacturers having the contract for comparison with information in possession of the manufacturer.)

[fol. 137] EXHIBIT XVII (b) TO ANSWER—FORM 5

Form 5

Cement Manufacturers' Protective Association

19 West 44th Street, New York

Audit No. 4614

Contract Pennsylvania 1167

Date November 24, 1920.

Purchaser: Drescoll Brothers & Company, Ithaca, New York—
 Work: Paving, curbing, crossings, etc. for city of Ithaca, New York
 —Contractor: Jos. Campbell & P. D. Conley—Contract: April 16th,
 1920, 4,000 barrels—Balance due November 1, 1920, 2,843 barrels.

GENTLEMEN:

The work covered by the above contract has been investigated and the facts as reported by the auditor are given below.

Source of information: H. L. Stewart, City Engineer: Joseph Campbell.

H. L. Stewart states that no such work as stated above is at present being done nor is such work contemplated.

Mr. Campbell states that he is not doing any work for the city of Ithaca, nor is P. D. Conley. They know of no contract for cement with Drescoll Brothers & Company.

Dated of Audit—November 23, 1920.

FK.

Kindly advise us whether the foregoing accords with your information and as to the standing of this contract. Unless we hear from you to the contrary by — this audit will be considered complete and so reported.

Cement Manufacturers' Protective Association, Per — — —.

(This form will be used by the Association when submitting information on an audited contract to the manufacturers having the contract for comparison with information in possession of the manufacturer.)

[fol. 137½] EXHIBIT XVII (c) TO ANSWER—FORM 5

Form 5

Cement Manufacturers' Protective Association

19 West 44th Street

New York

File Knickerbocker—792.

Date June 9th, 1920.

#3260

DEAR SIR:

The work covered by the following contract has been investigated and the facts as reported by the auditor are given below for your information:

Knickerbocker—792.

Purchaser: Massachusetts Lime & Cement Company, East Cambridge, Mass.—Work: Service Station 950 Commonwealth Ave., Boston, Mass. Owner: J. Shapiro—Contractor: J. Shapiro—Contract: February 4th, 1920.—4,500 bbls. Balance due June 1st, 1920 3,634 bbls.

Auditor visited location, dealer and contractor.

Mr. Snider says nothing delivered on this contract.

Mr. Dunn manager of Olds Company who leased the vacant lot at 950 Commonwealth Ave. says it cannot be used for commercial building as lot is restricted.

At Brookline Town Hall, clerk stated that several of the lots were restricted but as the vicinity has changed from a residential to a business district, the restrictions are about to be raised.

J. Shapiro states that number should have been 840 Commonwealth Ave. and he does not know whether the building will be erected this year.

[fol. 138] Mr. Shapiro Jr. on job stated that he does not expect the proposed garage at 840 Commonwealth Ave. to go ahead this season.

Date of Audit—May 28th, 1920.

Kindly advise us whether the foregoing accords with your information and as to the standing of this contract. Unless we hear from you to the contrary by ——— this audit will be considered complete and so reported.

Cement Manufacturers' Protective Association, Per ———.

(This form will be used by the Association when submitting information on an audited contract to the manufacturer having the contract for comparison with information in possession of the manufacturer.)

[fol. 138½] EXHIBIT XVIII TO ANSWER FORM 6

Form 6

Use this form when sending reply duly signed.

6/30/21

Cement Manufacturers' Protective Association, 19 West 44th Street,
New York, N. Y.

GENTLEMEN:

Referring to your report File Vulcanite—5437
Date June 29th 1921

Check Here

1. We find your report is correct..... ✓
2. We are making further investigation.....
3. We desire you to make further investigation for the
reasons noted below
4. Your report has been compared with our information
and we submit below additional facts

Vulcanite Portland Cement Company.

Manufacturers to use this form in reply to Form No. 5.

[fol. 139] EXHIBIT XIX TO ANSWER, FORM 23

Form 23

Cement Manufacturers Protective Association

Following are the Statistics of the Edison Portland Cement Company
for the Month of June, 1921

Clinker Produced

1st 6 months of 1920.....	703,067	Bbls.
1st 6 months of 1921.....	562,057	Bbls.
June 1920.....	148,633	Bbls.
June, 1921.....	156,353	Bbls.

Cement Ground

1st 6 months of 1920.....	698,350	Bbls.
1st 6 months of 1921.....	550,257	Bbls.
June, 1920.....	147,133	Bbls.
June, 1921.....	156,353	Bbls.

140

Exhibit XX to Answer—Form 12

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS

STATISTICS MONTH OF MARCH, 1919

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 3 Mos. 1918	First 3 Mos. 1919	% Change	March 1918	March 1919	% Change	First 3 Mos. 1918	First 3 Mos. 1919	% Change	March 1918	March 1919	% Change	First 3 Mos. 1918	First 3 Mos. 1919	% Change	March 1918	March 1919	% Change	Feb. 28 1919	CLINKER March 31 1918	CLINKER March 31 1919	% Change	Feb. 28 1919	CEMENT March 31 1918	CEMENT March 31 1919	% Change
	1918	1919					1918	1919					1918	1919		1918	1919		1919	1918	1919		1919	1918	1919	
Allentown	8	95	+1083	8	40	+400	7	95	+1257	7	40	+471	66	60	-9	42	31	-26	17	6	17	+183	86	16	95	+494
Alpha	215	169	-21	100	4	-36	238	110	-54	101	3	-97	373	240	-36	207	127	-39	337	239	338	+41	476	279	352	+26
Alcon																										
Athas	1044	1151	+8	475	485	+2	1066	1181	+8	476	485	+2	921	727	-21	469	279	-41	0	0	0		999	564	1205	+114
Bath	47	75	+60	43	42	0	46	86	+43	39	53	+36	57	84	+47	40	50	+25	100	33	91	+176	71	33	73	+121
Cayuga																										
Coplay	216	93	-57	91	27	-70	216	164	-24	92	73	-21	178	117	-34	96	50	-48	86	96	19	-80	91	99	115	+16
Dexter	95	182	+92	24	67	+179	109	154	+41	41	41	0	107	119	+11	66	55	-17	34	25	60	+140	76	36	62	+107
Edison	21	323	+1448	21	111	+429	32	324	+913	32	115	+259	178	99	-44	97	53	-45	40	20	36	+80	346	37	408	+1003
Giant L. V.	117	111	-5	56	48	-14	117	111	-5	56	48	-14	130	119	-10	73	47	-36	1	0	1		40	39	41	+5
Giant Norfolk ..																										
Glen Falls	81	135	+67	33	50	+52	61	128	+110	30	45	+50	49	34	-31	23	13	-43	11	70	16	-77	205	215	236	+10
Holderberg																										
Hereules	0	109		0	44		20	101	+405	20	36	+80	56	60	-23	29	26	-10	25	1	36	+3500	34	11	44	+300
Knickerbocker ..	111	162	+46	26	0		115	167	+45	38	0		71	75	+6	41	41	0	66	109	66	-39	277	184	235	+28
Lawrence	190	194	+2	80	61	-24	115	171	+31	46	48	+4	147	84	-43	77	40	-48	86	138	101	-26	146	121	154	+27
Lehigh	448	573	+28	119	210	+76	495	620	+26	150	222	+48	509	417	-18	277	177	-36	2	4	5	+25	824	308	870	+182
Nasareth	114	273	+139	104	112	+8	116	232	+117	106	75	-29	103	103	0	54	35	+2	22	31	60	+94	241	148	260	+76
Penn-Allen	10	106	+960	10	60	+500	10	108	+980	10	60	+500	84	58	-31	48	26	-46	0	0	0		81	38	114	+200
Pennsylvania S. .	204	296	+45	56	75	+34	271	143	-47	71	45	-37	165	124	-25	97	58	-40	149	67	179	+167	112	170	99	-42
Phoenix	0	0		0	0		4	0		0	0		35	xx		20	7		23	23	23	0	x	46	x	
Security	105	109	+4	65	75	+15	98	93	-5	52	66	+25	119	86	-28	60	53	-12	34	31	47	+52	50	52	62	+19
Virginia																										
Vulcanite	182	81	-56	75	49	-35	185	79	-57	73	48	-34	139	97	-30	68	47	-31	3	5	4	-20	55	101	56	-45
Total	3227	4210	+30	1495	1561	+11	3321	4623	+31	1440	1592	+14	3447	2703	-22	1884	1228	-35	1019	598	1099	+22	4210	2491	4481	+80

* Includes 48,272 bbls. shipped for account of another mill.

** Includes 20,442 bbls. shipped for account of another mill.

† Includes 48,990 bbls. shipped for their account by other mills.

‡ Includes 121,156 bbls. shipped for their account by other mills.

§ Stock overruns, will advise amount when same is all sold.

¶ Includes figures for Cayuga plant.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

Total Shipment

1st 6 months of 1920.....	583,394	Bbbs.
1st 6 months of 1921.....	542,829 $\frac{1}{2}$	Bbbs.
June, 1920.....	163,246	Bbbs.
June, 1921.....	165,136 $\frac{3}{4}$	Bbbs.

Stock on Hand

Clinker May 31st, 1921.....	27,000	Bbbs.
Clinker June 30th, 1920.....	36,000	Bbbs.
Clinker June 30th, 1921.....	27,000	Bbbs.
Cement May 31st, 1921.....	183,161 $\frac{1}{2}$	Bbbs.
Cement June 30th, 1920.....	175,987	Bbbs.
Cement June 30th, 1921*.....	174,126 $\frac{3}{4}$	Bbbs.

NOTE.—Please fill out and return to this office by July 4th, 1921.

19 West 44th Street, New York City.

(Here follows Exhibit XX to Answer, marked side folio page 140.)

[fol. 141] EXHIBIT XXI TO ANSWER—FORM 24

Form 24

Cement Manufacturers Protective Association

19 West 44th Street,

New York City.

Nazareth Cement Co.

Total Shipments

May 1st to May 15th, 1920.....	36,433	Bbbs.
May 1st to May 15th, 1921.....	43,776	Bbbs.

*250 barrels used at our mill have been deducted.

[fol. 141½]

EXHIBIT XXII TO ANSWER—FORM 14

Form 14

Cement Manufacturers Protective Association

Shipments, May 1st, 1921, to May 15th, 1921

Company	1920	1921	Change, per cent
Allentown	30,894	20,413	—34
Alpha	192,732	103,535	—46
Atlas	267,426	224,311	—16
Bath	36,407	35,175	— 3
Cayuga	19,234	21,906	+14
Coplay	27,838	39,161	+41
Dexter	27,890	42,537	+53
Edison	80,323	55,716	—31
Giant	26,427	35,753	+35
Glens Falls	22,287	21,190	— 5
Hercules	20,851	17,786	—15
Kniekerbocker	66,509	26,632	—60
Lawrence	40,818	71,856	+76
Lehigh	111,500	181,801	+64
Nazareth	36,433	43,776	+20
Penn Allen	26,300	24,179	— 8
Pennsylvania	40,883	62,652	+53
Phoenix	30,553	24,792	—19
Security	39,007	28,207	—28
Vulcanite	50,961	44,865	—12
Total	1,215,273	1,126,243	— 7

5-17-21

[fol. 142]

EXHIBIT XXIII TO ANSWER—FORM 26

Form 26

Cement Manufacturers Protective Association

19 West 44th Street,

New York City

Coplay Cement Manufacturing Co.

Bag Returns for Six Months Ending June 30th, 1921

Total bags returned

1,474,521

Total bags rejected

21,025

1.43

EXHIBIT XXIV TO ANSWER—FORM 19

Form 19

Cement Manufacturers Protective Association

Bag Returns for Six Months Ending June 30th, 1921

Company	Total bags returned	Total bags rejected	% rejected	% rejected same period 1920
Allentown	727,530	21,096	2.90%	3.77%
Alpha	5,128,155	55,044	1.07%	1.21%
Atlas	13,953,241	243,676	1.75%	1.52%
Bath	1,274,847	15,291	1.20%	1.33%
Coplay	1,474,521	21,025	1.43%	2.71%
Dexter	1,289,247	10,405	.81%	1.03%
Edison	1,726,622	65,758	3.81%	3.03%
Giant	1,641,755	63,891	3.89%	1.71%
Glens Falls	486,472	16,987	3.49%	4.49%
Hercules	578,033	16,954	2.93%	1.83%
Knickerbocker	1,278,755	2,859	.22%	.53%
Lawrence	2,144,423	66,394	3.10%	2.24%
Lehigh	2,168,249	37,881	1.75%	1.28%
Nazareth	1,527,409	26,054	1.71%	2.04%
Penn Allen	939,877	28,895	3.07%	2.21%
Pennsylvania	2,440,035	26,587	1.09%	1.78%
Phoenix	916,649	20,589	2.25%	1.30%
Security	1,001,419	14,422	1.44%	.85%
Vulcanite	1,652,654	22,896	1.39%	1.91%
Total	42,349,893	776,704	1.83%	1.73%

7-26-21.

[fols. 142½ & 143] EXHIBIT XXV TO ANSWER—FORM 22

Form 22

Monthly Report

Hercules Cement Corp.

7/7/21

Date July 1st, 1921.

No.	Bal. due previous month (L. 7-11-21)	Balance now due (L. 7-11-21)	No.	Bal. due previous month	Balance now due
938	8,011	6,394			
989	369	369			
1009	15,182.6	15,182.6			
1010	23,000	13,689			
1011	691	691			
1013	439	439			
1014	1,000	1,000			
1015	1,300	1,300			
1017	769	365			
1018	1,269	576			
1020	1,000	1,000			
		(L. 7-11-21)			
1021	569	338			
1023	1,000	1,000			
1027	2,500	2,500			
1028	4,292	3,079			
1029	500	500			
1032	500	500			
1033	1,200	160			
1034	1,500	1,038			
1036		1,800			
1037		461			
1038		1,000			
1039		69			

Hercules Cement Corporation. E. B. Goode, Jr., Sales Manager.

[fol. 144] IN UNITED STATES DISTRICT COURT

[Title omitted]

MOTION AND ORDER MAKING ALLENTOWN PORTLAND CEMENT CO.
AND LAWRENCE PORTLAND CEMENT CO. PARTIES DEFENDANT—
Filed Oct. 6, 1921

Upon the Motion of the United States of America by William
Hayward its attorney for the Southern District of New York, it is
hereby ordered

1. That Allentown Portland Cement Company, a Pennsylvania [fol. 145] corporation be made a party defendant to this suit.

2. That The Lawrence Portland Cement Company a Pennsylvania corporation be made a party defendant to this suit.

And that subpoenas be issued and served forthwith upon said Allentown Portland Cement Company and said The Lawrence Portland Cement Company.

(Signed) Jno. C. Knox, United States District Judge.

[fol. 146]

[Title omitted]

The United States of America by William Hayward its attorney for the Southern District of New York, pursuant to the provisions of Section 5 of the Act of July 2, 1890 entitled "An Act to protect trade and commerce against unlawful restraints and monopolies" (26 Stat. 209) known as the Sherman Anti-Trust Act, moves:

1. That Allentown Portland Cement Company, a Pennsylvania corporation, be made a party defendant to this suit, said company having taken over and continued the business of the defendant The Allentown Portland Cement Company, a New Jersey corporation, which was dissolved on June 27, 1919.

[fol. 147] 2. That The Lawrence Portland Cement Company, a Pennsylvania corporation, be made a party defendant to this suit, said company being a manufacturing concern which sells its product through defendant Lawrence Cement Company, a New York corporation.

New York City, October 6, 1921.

Wm. Hayward, United States Attorney. Roger Shale, Special Assistant to the Attorney General.

[fol. 148] [File endorsement omitted.]

[fol. 149] IN UNITED STATES DISTRICT COURT

[Title omitted]

ORDER THAT ANSWER STAND AS ANSWER FOR ADDED DEFENDANTS—
Filed Oct. 13, 1921

The defendants herein having on the 3rd day of October, 1921, filed their joint and several Answer to the Petition herein and an Order having been entered herein on the 6th day of October, 1921, [fol. 150] making and adding Allentown Portland Cement Company and The Lawrence Portland Cement Company, both Pennsylvania corporations, parties defendant to this suit, it is

Ordered, that the said Answer filed on the 3rd day of October, 1921, so far as applicable, be taken and stand also as the Answer of the said added defendants, Allentown Portland Cement Company and The Lawrence Portland Cement Company.

L. Hand, U. S. District Judge.

We hereby consent that the foregoing may be entered as an Order herein.

Wm. Hayward, U. S. Attorney, By Roger Shale, Attorney for Plaintiff, Oct. 11, 1921. Archibald Cox, Attorney for Defendants.

[fol. 151] [File endorsement omitted.]

[fol. 152] IN UNITED STATES DISTRICT COURT

[Title omitted]

STIPULATION RE HEARING OF CAUSE ON RECORD IN CASE OF U. S. v
ATLAS PORTLAND CEMENT CO. ET AL.—Filed Dec. 27, 1922

To expedite the hearing and determination, it is hereby stipulated and agreed that this cause be heard and determined upon the record made at the trial of the case of the United States of America vs. The Atlas Portland Cement Company, et al., in the United States District Court for the Southern District of New York, before the Honorable John C. Knox, J., and a jury, April 4 to May 26, 1922, without other evidence, that is to say all the testimony, exhibits and stipulations presented at said trial shall be used herein with the same force and effect as if duly offered and introduced herein subject to rulings of the Court herein on the objections interposed to any of the evidence when offered or received at said trial.

A. T. Seymour, Asst. to the Attorney General. J. A. Fowler,
Roger Shale, Special Asst. to the Attorney General. Archi-
bald Cox, Sol. for Defendants. December 15, 1922.

[fol. 153] [File endorsement omitted.]

[fol. 154] IN UNITED STATES DISTRICT COURT

**Record in United States of America v. The Atlas Portland
Cement Company et al., in the United States District Court
for the Southern District of New York, Before the Honorable
John C. Knox, J., and a Jury, April 4 to May 26, 1922.**

Appearances: For the Government: William Hayward, Esq.,
United States Attorney; James A. Fowler, Esq., Roger Shale, Esq.,

Special Assistants to the Attorney General; John E. Joyce, Esq., Assistant U. S. Attorney; for the defendants: Henry L. Stimson, Esq., Archibald Cox, Esq., George T. Buckingham, Esq., Joseph Cotton, Esq., Louis H. Porter, Esq., Goldthwaite H. Dorr, Esq., Kenneth M. Spence, Esq., Thurlow M. Gordon, Esq., and Leland B. Garretson, Esq.

[fol. 155] GEORGE HOWARD ELLIOT, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I reside in Philadelphia. I am vice president in charge of sales of the Whitehall Cement Manufacturing Company, which is not one of the defendants in this suit. I have been vice president since January 1st, 1921. Prior to that time I was manager of sales. I have always been engaged in the cement business, never as an operating man, always in the sales department.

After the stone has been pulverized it passes through a rotary kiln in which it is exposed to a heat of approximately 2,800 to 3,000° F. and comes out in the form of clinker. Clinker is not subject to deterioration when exposed to the weather. We have had clinker exposed to the elements for as long as 22 months without being damaged. All cement sold must meet the so-called standard specifications. There is no reason why cement should not be made better than required by the so-called standard specifications.

I was with the Alpha Portland Cement Company, one of the defendants, from the beginning of March, 1912, until the end of March, 1916, then with the Edison Portland Cement Company, one of the defendants, until September 30, 1918 (see p. 159). Before I went to work for the Alpha Company in 1912, I was selling cement in the employ of Lesley & Trinkle Company, of Philadelphia, selling agents for the American Cement Company, who then manufactured Giant cement. Lesley & Trinkle Company also sold foreign cements and natural cements (p. 160-1).

The general method employed by various companies in selling cement, according to my experience and knowledge, is that they [fol. 156] have a sales force and those salesmen cover a certain territory and solicit business either through the dealer or the contractor, or practically anywhere where they can sell cement. The dealer always carries his stock of cement, he has teams and usually tracks running into his warehouse, so that he is in a position to receive shipments of cement and deliver it either in small lots or large. He is between the manufacturer and the consumer. The contractor purchases cement both ways, they sometimes buy direct and sometimes buy through the dealer.

I was salesman for the defendant Edison Company from April 1, 1916 to May, 1917, and then I was District Manager from May 1, 1917 until the end of September, 1918. As District Manager my office was in Philadelphia, and I had the southern part of the State of New Jersey, Delaware, Maryland, and I think about twenty coun-

ties in the eastern part of Pennsylvania. The method of making sales of the Edison Company at that time was: I was given a price, I had a force of salesmen, and I was given a price to solicit business, and we took business on the price given to us by the home office. I had no discretion whatever with reference to that price. That price applied to any point in my territory. What I mean is the price was figured at so much at the mill, and then there was a charge additional for sacks, and to which we added the freight rate to any given point. The company had a mill base price, but we sold on a delivered price. They told me the price at the mill, but required me to sell f. o. b. [fol. 157] at the point of delivery. That was the custom. That was the way we were told to do it. I reached the price at the point of delivery by taking the price at the mill and adding the sacks and adding the freight. I knew what to add to the mill base price because I had a freight rate book.

The three pamphlets or books handed me are freight rate books—the same as I used when I was with the Edison Company. The home office furnished those books to me. They have three columns showing Universal, Union Bridge and Lehigh Valley. During the time I was connected with the Edison Company, I was only interested in the Lehigh Valley freight rate, because the points in my territory were governed by that freight rate. I didn't go into any other section. My territory was all nearest the Lehigh Valley and all the cement that I distributed came from there. The Edison mill is in the Lehigh Valley district. The Lehigh Valley point was called the Lehigh Valley base. The book shows the freight rates from that point to every station or delivery point in my territory, unless it was some very small station that possibly had no agent, or something like that. In my experience, I did not find any point that was not designated in that book.

The Universal base mentioned in the Pennsylvania book is located at Universal, Pa., near Pittsburgh. Our mill is in the Lehigh Valley district, seven miles above Allentown. The Lehigh Valley is a valley between two mountains and the mills in that valley are in the Lehigh [fol. 158] Valley district. I don't know how large a district the Lehigh Valley is. There is not more than twenty miles between any of those mills. It is in the eastern part of Pennsylvania. Universal is in the extreme western part of Pennsylvania. Union Bridge, mentioned as a basing point in the freight rate book, was down in Virginia or Maryland, but I have never used that. Fordwick is in Virginia. I have never used that.

During my connection with the Edison Company, if I was going to sell cement at Altoona, Pa., which was not in my territory, the only way I could make a price would be to call the New York office and have them give me a price at Altoona. I had as far as Lancaster. To compute the price of cement at Lancaster, I would take my price at the mill plus my sacks and plus my freight rate to Lancaster, which in this book is mentioned as 39 cents as the Lehigh Valley rate. The Universal rate in the book to Lancaster is 53 cents. I would take the lowest one in my district. The Lehigh Valley rate

was the lowest to all the points. If I had an opportunity to sell cement out at Pittsburgh or Altoona, I would have to shrink some freight to get into that town, because a shorter haul would have a lower rate. Strictly, I could not consider Altoona. I would call up the New York office and ask them for a price at Altoona. Anyone in the sales department would give it. I wouldn't know exactly how they computed it, because it was not in my territory and I did not have all the details concerning the sale of cement in that section. I might not be asked for a price at Altoona once in a year. I never [fol. 159] deviated from that method of fixing prices in my district while I was with the Edison Company, from April 1, 1916 until September 30, 1918.

I was with the Alpha Company, one of the defendants, from the beginning of March, 1912 until March 31, 1916. The method of quoting prices of cement while I was with Alpha was practically the same as when I was with Edison. We were given a price at which to solicit business and took orders at that price. They used a freight rate book similar to that which I am shown during the whole period while I was with Alpha. They were furnished to me by the Alpha Company. The books marked Government's Exhibit No. 3, 4 and 5 for identification, are the same style of book that I used. My district when I was with the Alpha Company consisted of Delaware, the southern section of New Jersey, the eastern shore of Maryland and four or five counties of Pennsylvania around Philadelphia. I computed the price of cement the same way, by having a mill price and then adding the cost of sacks plus the freight rate to any given point. I was not permitted to deviate from the price given me by the Alpha Company.

When I was working for the Edison Company, we would be asked for prices and make prices on the same job that other companies were bidding on, that possibly various contractors were figuring on. We wouldn't know what price the competitors bid, but it was very easy to find out what price they had paid. If you knew the contractor very well or if you knew the dealer, he would tell you what [fol. 160] prices he had. I found out the prices offered by other concerns from time to time. We would invariably find out any man who received a price and if you named a higher price, he would always tell you he had something better, that you would have to do a little bit better to get the business.

While I was representing the Edison, I had no way of knowing how the other defendants computed their prices. I would find out the different prices that were made, but I would have no way of knowing how they were arrived at. The same conditions prevailed when I was working for the Alpha Company. The Alpha Company were using their freight rate books when I first went with them in March, 1912.

The books referred to by the witness as similar to those used while with the Edison Company are marked for identification as follows:—Government's Exhibit 6 for Identification, freight rates for the State of New York; No. 7 for identification, freight rates in

the New England States; No. 8 for identification, freight rates in Maryland, Delaware and the District of Columbia.

Cross-examination by Mr. Stimson:

The manufacture of cement is a pretty complicated business. It takes a good deal of skill and a good deal of care to get the mixture right. It is followed all long with laboratory tests. It can be spoiled and sometimes is, and in that case you lose the whole batch [fol. 161] in which the mistake has taken place. The chief elements of cost are coal and labor. During the year 1920 we had trouble with coal. We couldn't get coal delivered and had to pay a very high price for it from about April or May forward. I was then with the Whitehall Company, which is not in the Cement Manufacturers Protective Association. We paid during that year around \$10.50 at the mines for some coal. In ordinary years we paid \$1.75, \$2.25, \$2.50. It went up to over \$10 from \$1.75. That made a great difference in the cost of cement. I do not think that the cost of labor was abnormally high during the year 1920.

We couldn't get any cars to make shipments of our cement. That was quite an aggravated condition with us. All the companies in the Lehigh Valley were having great trouble in getting cars to deliver their cement and in getting cars to get coal. That was a general condition in the Valley that year. We did everything we possibly could. We used gondola cars. We bought canvas to cover the cement. We also used some old hopper cars that were out of use. We bought the lumber to floor them and put the floors in the cars, and bought tarpaulins to ship them into New York. The other companies were doing the same thing. They were making every effort to deliver, even in cars which required extra care and expense for protection. I heard of some companies delivering by truck, even, motor truck.

The book shown me contains an executive order signed by the President of the United States, directing that all cement used by the [fol. 162] Government shall conform to the test there given. This test was gotten up through the American Society for Testing Materials, and different engineers, and the Bureau of Standards, all organizations outside of the cement manufacturers. That virtually eliminated all difference between the different brands of cement on the market. In the sales department, I found that after that time practically all brands of cement were treated alike by builders and architects. All anybody wanted to know was whether it would pass this set of tests.

Offered in evidence, Defendants' Exhibit D-1. Printed in part in Exhibit Book, p.—.

Since that time I have found that this uniform standard tended to make a very uniform cement throughout the market, in its treatment by everybody. For instance, if a man could get cement manufactured by one company at 5 cents less than it was offered by another company, he would take the cheaper one, no matter what the

brand was. That was true universally, so far as the general market was concerned.

I have been in the cement business since 1901. During that period the use of Portland cement has so developed that it has driven foreign cement absolutely out of the field. The increase of Portland cement has also resulted in there being no natural cement on the market, so far as I know. There has been a constantly expanding production of Portland cement and instead of being an import that we used to import from foreign countries, we have now developed an export trade.

[fol. 163] The American Company, which the Lesley & Frinkle Company represented when I was with them, went into bankruptcy between the first of January and the end of February, 1912.

Cement would not be affected very much by air, if it did not rain or if it was not left in the air too long, but even in the air without rain, it will deteriorate with time. If rain falls on it, it will spoil. It is a pretty heavy product, which requires a truck to carry it to the job. Some contractors own their own trucks or have a contract with a teaming or trucking company who does all their trucking, irrespective of cement or anything else. In other cases, they depend on the dealer. It is very common for them to depend on the dealer to give them just the little amount that they require from time to time. If they have a lot of cement lying around the job, it would absolutely have to be protected, whereas if they could have a dealer to draw on as they needed it on the job, the dealer protects it. Most of the cement that the dealer stores goes out in small lots. He buys it in carload lots, thereby getting a lower freight rate on the railroad. The freight rate in less than carload lots is much higher than for carload lots. The dealer then sells it in less than carload lots. The amount of cement that the dealer handles in that way is a big percentage of the cement on the market. I would say it was more than half.

[fol. 164] The dealer also handles local credits. He knows his local business and he knows the responsibility of the builders there. To a great extent it is a fact that the dealer controls in his locality very substantially the market for the cement that is sold there, and he can say which company's cement will be used. That gives him a good deal of power.

So far as specific job contracts were concerned, while I was with the Alpha and with the Edison, in case the price of cement on the market fell before the time for delivery, the dealers usually got the lower price. As a matter of general practice, if the price went down, the companies did not try to hold the dealer.

Under the method of calculating the delivered price, while I was with Alpha and also with Edison, all that my mill had to do in order to let me know what I could sell cement for in any place in my district, was to tell me the mill price and give me one of these freight rate books. As far as I was concerned, that was a considerable convenience. Otherwise I would have had to get the tariff of the different railroads going into that town and figure up the cost of

a barrel of cement from the tariff. That is a very serious job. If I tried to calculate the railroad rate under a modern tariff from the Lehigh Valley to a small town in Maryland off the main line, with several changes of railroads, it would take quite a good deal of time. In this book I find it all done for me. That is all this book was. It [fol. 165] was simply a list of the different towns and railroad stations in my district, with the freight rate calculated beforehand from the railroad tariff from the Lehigh Valley to that place. That is all it was. It was a good deal of a labor-saving device. I never heard of anything secret about it that anybody could not do if he tried.

Before the Cement Manufacturers Protective Association was formed in 1916, the Alpha Company, for example, by itself furnished us books in the same way. So far as I know, all that the Cement Manufacturers Protective Association has done has been to do as an association what the Alpha Company used to do by itself in regard to these freight rate books. It is just exactly what the companies did before by themselves.

Our company thought it would like to have a set of the freight rate books and wrote to the Cement Manufacturers Protective Association to ascertain the cost thereof. Upon receipt of advice that there would be no charge for the books we did not obtain any copies. We have our own freight department and proposed to use the books simply to check against our rates to see if they were correct.

While I was salesman for the Alpha Company, I would go circulating wherever I thought I could sell my cement. My principal class of customers were the dealers. When I went to a dealer I would find others offering cement. I always tried to take away a dealer from another company, if I could. Other companies tried to take away dealers from me. I occasionally succeeded and I suppose the others sometimes succeeded. I did my best to get business. I tried to increase the business in that district at the expense of the other Lehigh Valley companies, by taking away business from them. That is what I was told to do. That was evidently what they tried [fol. 166] to do to me. That lasted as long as I was with Alpha. Then I went over to Edison as a salesman, but about a year later I was made district manager. My function as a salesman there was the same thing as with Alpha. I did the same thing. I found the other companies in that district trying to do the same thing. I did just what I did with Alpha before.

While I was with Alpha the price did not remain the same all the time—not by a long sight. I remember that cement went very low about December, 1914. We had instructions about watching the price which other companies were asking. We always did that. We were always told to watch the price and report any new figure that we heard. That was part of my regular duty. Watching other companies was a matter of routine. We did it practically all the time. When I found out any change in price by any other company, I notified the office, the Alpha headquarters. We would find out that there was any such change from the dealers, or possibly the contractor, on whom we called. They would tell me that some other

company had offered it at a lower price. I remember a number of times when after I had reported that, my own company changed its price to meet it. I don't know whether it was a great many times, but whenever the occasion arose.

I remember that in 1915, the latter part of 1914 and the early part of 1915 cement went way down by a succession of drops. The prices of the different companies followed each other down as fast [fol. 167] as it went down. As fast as one company went down, the others followed suit as soon as they heard of it. They could not have sold very much cement if they didn't. You could not sell if you stayed up. I would have no way of knowing the cost in those days, but they went to a very low price. It was commonly said all around that they were selling below cost.

This method of my watching the other fellow was true at all the time I have been a salesman, all the time I was with the Alpha and all the time I was with Edison. There wasn't any difference in that respect at all between the time before 1916 when the Cement Manufacturers Protective Association was formed and after it was formed. They still kept up this watching each other, absolutely. That made no difference at all. Whitehall today does the same thing.

When I spoke about shrinking freight or absorbing freight to get into Altoona, I meant that the freight which some competitor nearer Altoona would have to pay to get to Altoona was less than our freight and we would have to absorb the difference if we wanted to go into that town. If, for instance, a competitor was offering cement f. o. b. Altoona at \$1.50, and his mill price was \$1.00 and our mill price was \$1.00, and it cost him 50 cents to get there and it cost us 75 cents to get there, we would have to absorb the difference of 25 cents in the freight rate, if we wanted to compete with him in that town, [fol. 168] which means that our mill, instead of getting a dollar, would only get 75 cents per barrel out of that sale there. The rest would go to the freight company.

Redirect examination by Mr. Fowler:

With reference to shrinking that freight, I meant that you had to absorb that freight if you bid at the same price, to put your cement there at the same price as the other fellow. If we had shrunk it a little more and gone under, I should say we would have got the business. What we did was to shrink and get down to where the other fellow was.

The determining factor in getting that business when you both made the same price was the personal equation of the salesman and possibly the fact that the dealer or contractor in question had used the brand before and liked it, maybe a matter of service or possibly some personnel of the company that would influence it. I think the brand of cement has some bearing. There might be some influence from a man who has used it and has known it to be satisfactory over a period of time. Where the same price is put on cement at the same locality, the matter of price is eliminated so far as competition is

concerned, and the question of sale depends on the other matters that I have described.

The price went very low in 1914 and 1915. I think that was the [fol. 169] lowest price at which cement had ever been sold. I sold cement in 1914 or 1915 for 60 cents at the mill. In 1916 cement went over a dollar. I don't just remember the exact figure. In 1917 it went to \$1.35. In 1918 the Government fixed the price. During the war the Government fixed the price. Cement was lowest in 1915. The Cement Manufacturers Protective Association was organized in 1916. The price of cement is higher now than it was at that time. It has gone up and down. It has fluctuated. In these years subsequent to 1916 it was higher than it was prior thereto. I think the starting of 1921 it dropped.

I spoke about trying to get business while I was working for Alpha and also while I was working for Edison. I tried to get dealers from other parties and they tried to get them from me. I did not have any discussion as to what price I would put on our cement. I had positive instructions that I had to sell every bit of it at the particular price designated to me. When I got a dealer from another fellow, I got him by talking up service and the personal element.

My present company had some old freight books that we used just as a check. We quote all our prices f. o. b. our plant and we figure our freights from the tariff. The customer pays the freight between the mill and the point where it is delivered. We simply use this freight rate book to check the figures which we get from the tariff. Those figures contained in these books to a given point differ slightly from the tariff. Sometimes there is a fraction of a cent more or a [fol. 170] fraction of a cent less. The variations are not all in excess, but to avoid a fraction of a cent, I should say the rate could be figured either way.

Recross-examination by Mr. Stimson:

If we went down 5 cents below the other man at Altoona, instead of coming down to his price, undoubtedly if he wanted to hold the business he would possibly come down to our price, so we would both be level again.

Cement prices dropped in 1919 after the war. They dropped below what they had been during the war. The prices during the war were prices fixed by the Government. After the war the first thing prices did was to come down below that price. They came down again in the fall of 1920. I was in error in saying it was 1921. There have been several fluctuations since 1916. The first drop in 1920 was about December 1st, 1920.

With my present company, we tell the purchaser what the freight rate is and what the mill price is. We give him both elements separately. The other companies gave it together. That is the only difference.

[fol. 171] MARY BELLE PHALEN called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I reside in New York City. I was employed by the Cement Manufacturers Protective Association on May 13, 1918 (p. 303). About a month after I went with the Association I was elected secretary and have been secretary of the Association ever since. I have custody of the books and papers.

The only members of the Association are manufacturing corporations, namely: The Atlas Portland Cement Company, The Allentown Portland Cement Company, Alpha Portland Cement Company, Bath Portland Cement Company, Coplay Cement Manufacturing Company, Dexter Portland Cement Company, The Edison Portland Cement Company, Giant Portland Cement Company, The Glens Falls Portland Cement Company, Hercules Cement Company, Knickerbocker Portland Cement Company, Inc., The Lawrence Cement Company, Lehigh Portland Cement Company, Nazareth Cement Company, Penn-Allen Cement Company, Pennsylvania Cement Company, The Phoenix Portland Cement Company, Security Cement and Lime Company and The Vulcanite Portland Cement Company.

The home office of the Association has been at 19 West 44th Street, in the City of New York, ever since I have been secretary. We have a loft space divided up by partitions, not a very large one, say about 14, perhaps, by 20. That is, approximately, I am not a very good judge of that.

I am not acquainted with John R. Morron at all. He has never attended one of the meetings. I don't know what he looks like. I know the name of the president of the Atlas Portland Cement Company [fol. 172] is John R. Morron. I am not personally acquainted with W. E. Miner. He has never attended one of the meetings of the Association that I can recall.

I was present at the meetings with few exceptions occasioned by my illness. I kept the records. A public stenographer was engaged to take the stenographic notes. The meetings were not called specially. They met once a month, usually the third Thursday.

The Association had printed and furnished to its members what were known as freight rate books. They were printed at the expense of the Association by T. C. Davis in Philadelphia. As a means of saving time they were forwarded directly from the printer's office to the members who were to receive them and the surplus was delivered to the Association. They contained freight rates. The book handed me is what is called the New England book, covering all the states under New England.

Offered in evidence Government's Exhibit No. 9. Printed in part in Exhibit Book, p. —.

The next one covers New York.

Offered in evidence Government's Exhibit No. 10. Printed in part in Exhibit Book, p. —.

The next one covers Virginia.

Offered in evidence Government's Exhibit No. 11. Printed in part in Exhibit Book, p. —.
[fol. 173] The last one covers West Virginia.

Offered in evidence Government's Exhibit No. 12. Printed in part in Exhibit Book, p. —.

There were eight books in the complete set, I believe. These exhibits are only four of one set. The District of Columbia, New Jersey, Pennsylvania and an Ohio book would complete the eight.

A freight rate book for Pennsylvania, marked Exhibit 3 for identification, offered in evidence as Government's Exhibit No. 3. Printed in part in Exhibit Book, p. —.

A freight rate book for New Jersey, marked No. 4 for identification, offered in evidence as Government's Exhibit No. 4. Printed in part in Exhibit Book, p. —.

A freight rate book for Maryland, Delaware and District of Columbia, marked No. 5, offered in evidence as Government's Exhibit No. 5. Printed in part in Exhibit Book, p. —.

The paper shown me entitled "Outline of Plan for a Protective Association of Cement Manufacturers." "Revised to January 1, 1921." is the plan and also contains the constitution and by-laws.

Offered in evidence Government's Exhibit No. 13. Printed in Exhibit Book, p. —.

[fol. 174] The by-laws provide that when the freight rates are changed between points by the railroads, these books shall be corrected. That was done. If there were not very many, notice of the corrections was sent out from the office to the members who possessed the books, and the member was supposed to note it right on the face of the book at that particular point.

The provision of the by-laws for certain kind of reports to be made by the manufacturers to the Association as to contracts and everything of that kind was carried into effect. These reports applied to specific job contracts. They had nothing to do with the sale of cement directly to the dealer that he took in stock and distributed by sales. If some contractor had a job to erect a large concrete building and he wanted a large quantity of concrete extending over a month's time, it would apply to that kind of a contract. Those forms of reports were printed at the instance of and paid for by the Association. They were distributed among the manufacturers by the Association.

The card shown me is one of the forms provided by the Association to member companies for the purpose of reporting to the Association all information and full data concerning specific job contracts. The information extracted from the contract itself by the member company whose brand of cement was to be furnished on

this specific job contract, was the date of the closing of the contract, the month, day and year, the contract number, the purchaser's name, the purchaser's address, and the work described as fully as possible, together with the location of the work and the contractor's name, the number of barrels to be supplied on that job, the price closed at, [fol. 175] the delivery point and the date of expiration. On the back of the card appeared instructions as to how complete in detail the information should be.

Offered in evidence Government's Exhibit No. 14. Printed in Exhibit Book, p. —.

This other card, designated Form 21, is the form provided by the Association to member companies for the purpose of reporting such changes as may occur in this contract from time to time, giving the following information: The company name, with the contract number and date, the delivery point which was originally mentioned on that other white card, and there is a space provided to check if the contract was completed, cancelled, stating the number of barrels, decreased, with the number of barrels, or increased, with the number of barrels, leaving the balance due, showing the number of barrels, and the date of expiration should it be changed, giving the date it has been extended to.

Offered in evidence Government's Exhibit No. 15. Printed in Exhibit Book, p. —.

The manufacturer made his report on the form like Government's Exhibit No. 14, sometime after he closed the contract. It would be very difficult to say how long after he closed the contract. The time varied with the companies and varied with the contracts. After the contract was entered into, according to custom it was reported to the Association within a few days, with variation, sometimes up to two weeks, possibly later. I never paid specific attention to that. [fol. 176] It was usual for them to be sent in within a very few days. It would be very difficult to say, also, when the reports of modification of contracts on the form Government's Exhibit No. 15 were sent in. If these reports came in an appreciable length of time after the contract was made, there was not any custom on the part of the Association to communicate with the company and ask that more prompt reports be made. There was not any way by which we knew whether the contract had been entered into until the report was made.

This paper, designated Form 7, is a form which was made up by the Association's office in mimeograph form, showing the receipt of the day's contracts, with other data given on that white card, Form 20, Government's Exhibit No. 14, for this specific date. We filled out that Form 7 at the office from the information contained on the white card, Form 20, Government's Exhibit No. 14. It is made out daily. It shows the number of the contract, the purchaser's name and address, the delivery point, the description of the work, in full, the brand of cement, the date the contract was

closed, the expiration date, the number of barrels sold, the price and a letter which indicates the class of work, that is, whether it is roads, housing, miscellaneous, bridges, railroad work, and so on. Following the list of contracts received that day is also a report from the yellow slips, Form 21, Government's Exhibit No. 15, which were received the same day, notifying the members of such changes as appear, such as cancellations and so on.

Offered in evidence Government's Exhibit No. 16. Printed in Exhibit Book, p. —.

[fol. 177] Our information came in during the day and we made up this report sometime during the day and mailed it out that night everyday except Sundays and holidays. It included every sale reported to the Association's office, that is, only contracts for future delivery, not current sales. If someone did not report we would not know it. The next morning after these reports went out every manufacturer had within his knowledge every contract that had been reported to the Association, and information as to every change in every contract.

Form 8 was compiled by the Association's office and accompanied Form 7, Government's Exhibit No. 16. Form 8 is a summary, giving the number of new contracts received on the specific date, the number of barrels to-day and to date, that is to say, the number of barrels reported to-day plus the number which was previously reported, would make the number to date, the number of contracts cancelled, reinstatements and increases today and to date, decreases to-day and to date. When the manufacturer received it he would know exactly the number of barrels that every cement company had under contract for future delivery on specific jobs for a period from the first of the month to the day of the issuance of that particular report. We would begin on the first day of the month and every day send along this summary, giving the day's result, with the amount previous from the first of the month.

Offered in evidence Government's Exhibit No. 17. Printed in Exhibit Book, p. —.

Form 1 is a form printed and provided by the Association and distributed amongst the member companies to be used in calling attention to any particular contract which they may have occasion [fol. 178] to request an investigation of. The contract may be either a contract made by the company itself or by some other member of the Association. In such a case we would send an Association inspector to make an investigation with respect to the contract. For illustration, if the Alpha Company had made a contract with a man by the name of John Brown through some dealer and does not understand exactly how much cement he wants, it could ask for an investigation of its own contract. It might also include any other contract with any other manufacturer.

Form 1 is offered in evidence, Government's Exhibit No. 18. Printed in Exhibit Book, p. —.

When the association received an inquiry of that kind, the procedure was by another form, Form 2 for buildings, or Form 3 for street pavings, which are the same except for a slight difference in the language. That Form 2 or 3 is filled out by the Association from the original contract card Form 20, Government's Exhibit No. 16, and the request for investigation is indicated and the form thus made out is sent to one of the investigators who proceeds to look into the job. When this is done depends upon the particular case, whether we have an investigator in the immediate neighborhood, or the order in which they come in as we can take care of them.

Form 2 offered in evidence, Government's Exhibit No. 19. Printed in Exhibit Book, p. —.

Form 3 offered in evidence, Government's Exhibit No. 20. Printed in Exhibit Book, p. —.

[fol. 179] We employed from three investigators, which we had as an average, to a few more. They were experts along that line, or supposed to be. They were kept busy most of the time. He would return his information on the same form which was provided by the Association. This Form 5, 5-a and 5-b, was written up, giving the complete information concerning the contract, together with the full information obtained concerning it by the investigator. That report would be sent to the manufacturer who made the inquiry and to any other manufacturer whose brand was to be used on the same job.

Form 5, 5-a and 5-b offered in evidence, marked Government's Exhibit No. 21. Printed in Exhibit Book, p. —.

If the manufacturer is not quite satisfied with the investigation he will write in for a re-investigation. Form 6 is the form provided by the Association for use by the member companies upon receipt of the information obtained by the investigation. It provides spaces to check.

Form 6 offered in evidence, Government's Exhibit No. 22. Printed in Exhibit Book, p. —.

Form 22 is a form provided by the Association to member companies for the purpose of reporting at the end of each month a list of all active specific contract jobs as of that date, together with the balance due in barrels the previous month and the balance now due. A report of that character was sent to our office at the end of each month. That enabled us to check with our files so that they might [fol. 180] accord with the files in the member company offices and we posted the commitments on a little slip attached to the card showing the commitments due at the end of the month as of the date of the report.

Form 22 offered in evidence, Government's Exhibit No. 23. Printed in Exhibit Book, p. —.

[fol. 181] Form 13, Government's Exhibit 24, gives the percentage of commitments compared with shipments for the past twelve months, comparing the percentage of the year of the report with the percentage of the preceding year. That was figured up in our office and was issued quarterly.

From the forms listing active specific job contracts, Form 22, Government's Exhibit No. 23, we made a monthly summary as soon after the first of the month as we could finish the work. We would generally get it out about the middle of the next month.

Offered in evidence, Government's Exhibit No. 25, printed in Exhibit Book, p. —.

Form 9 is a monthly summary of contracts issued at the end of each month summarizing the daily contract reports, Form 8, Government's Exhibit No. 16. Form 9 shows the number of new contracts from the first of the year to the date of the report, the balance to date, the number of cancelled contracts to date and the balance to date, the reinstatement and increases to date in barrels, and the decreases to date in barrels. It was prepared in our office and sent to the member companies.

Offered in evidence Government's Exhibit No. 25, printed in Exhibit Book, p. —.

Form 10 is merely a printed list of the contracts reported to the member companies on the daily sheets for an entire period. This Form 10 shows every specific job contract which is in force at the [fol. 182] time of its publication. It was sent out quarterly.

Offered in evidence Government's Exhibit No. 26, printed in part in Exhibit Book, p. —.

This quarterly report was made up from Form 7, Government's Exhibit No. 16, originally. If any contracts had expired in the meantime and were not alive at the end of the quarter, they were not included in this report. In order to prepare a new report, we took the last report made and made such changes in it as were reported to us by the member companies on that yellow slip, Form 21, Government's Exhibit No. 15, also changing in the column there where it says "Balance now due," giving the commitments due as of the date of the publication of the report. This Form 10, Government's Exhibit No. 26, was sent to the members of the Association every quarter. The daily report showed the contracts reported for that date and this monthly report showed every contract that was in existence on that date. This report showed the exact price at which every contract was made. It varied in size with the season of the year and what amount of business was going on.

Form 11 is also made up at the Association office. It shows the total commitments in each particular State, in barrels. It is a monthly summary made up sometime during the first two weeks of the month and sent to the member companies.

Offered in evidence Government's Exhibit No. 27, printed in Exhibit Book, p. —.

[fol. 183] Form 23 is made up at the Association office. It is a production and shipment report. It compares the production and shipments of that month with the production and shipments of the corresponding month in the year before. It was a monthly report which each manufacturer made to the Association.

Offered in evidence Government's Exhibit No. 28, printed in Exhibit Book, p. —.

When we received these reports, Government's Exhibit 28, we compiled the figures obtained in a summary showing the figures of all the member companies and sent the compilation, our Form 12, to each member.

Offered in evidence Government's Exhibit No. 29, printed in Exhibit Book, p. —.

The notations in the left-hand corner of Government's Exhibit No. 29, for instance, "Includes 115,239 $\frac{1}{4}$ barrels shipped for account of other mills," is information which was given on Form 23, Government's Exhibit No. 28, by the member company. These reports often showed that one mill was shipping for another. Such information appeared on almost every report—not of course as to every company, but as to some of them.

A copy of the reports on Form 12, Government's Exhibit No. 29, for each month during the years 1919, 1920 and 1921 up to March, offered in evidence, Government's Exhibits No. 30 to 56, both inclusive, printed in Exhibit Book, pp.

[fol. 184] The only thing we have got on the report is just what is reported to us. If the company omitted to make a report, we had no way to ascertain the fact.

Form 24 is used by members to furnish their total shipments for the first fifteen days of the month. It shows the total shipments both to dealers and on specific contracts during the first 15 days of the month, and it is all embraced in a report at the end of the month.

Offered in evidence Government's Exhibit No. 57, printed in Exhibit Book, p. —.

Form 14 is a compilation of the figures received on form 24, Government's Exhibit 57, giving the company name, the shipments for the same period of the year before, and showing the change in percentage.

Offered in evidence Government's Exhibit No. 58, printed in Exhibit Book, p. —.

It was sent out to each member bi-monthly.

Form 25 was used by the member companies for the purpose of reporting delinquent accounts. It gives a space for the customer's name and address. The next column shows unpaid accounts four

months or more old, three months old, two months old, and the ledger balance. The next shows bills receivable, trade acceptances, with a column provided for the date that the trade acceptance covers. The next column is for notes. Another column is marked "I. H. A.," [fol. 185] which means accounts in the hands of attorneys, and another column provides for any explanation pertaining to the accounts which might be listed. In the upper right-hand corner are symbols noting back balance, disputed account, endorsed account, guaranteed account renewal. The manufacturer made this report to the Association every month.

Offered in evidence Government's Exhibit No. 59, printed in Exhibit Book, p. —.

Form 15 is a compilation of all the information received on the form Government's Exhibit No. 59. It is a reproduction of the whole sent to each member of the Association.

Offered in evidence Government's Exhibit No. 60, printed in Exhibit Book, p. —.

In the report Government's Exhibit No. 60, each company is referred to by a number instead of the name being written out, which, of course, would crowd the space very much. Each member of the Association knows the number of the others. Government's Exhibit No. 60 was sent out at the beginning of each month without any request.

Form 16 is a summary from Form 15, Government's Exhibit No. 60, which accompanies it. It gives the total amount due to each member from delinquent debtors and also, as a matter of comparison, the previous year's totals for the same period.

Offered in evidence Government's Exhibit No. 61, printed in Exhibit Book, p. —.

[fol. 186] Form 17 also accompanies Form 15, Government's Exhibit No. 60, and Form 16, Government's Exhibit No. 61. It is a comparative statement of summaries of past due accounts for the past twelve months. It is sent out every month.

Offered in evidence Government's Exhibit No. 62, printed in Exhibit Book, p. —.

Form 18 is accounts placed with attorneys, giving the name and address of the debtor, the number of the company who reported it, and the amount, together with amounts previously reported and paid during the month.

Offered in evidence Government's Exhibit No. 63, printed in Exhibit Book, p. —.

Form 27 is used when an inquiry comes in concerning a certain account or request for certain information concerning it. It shows that our records show that the name appeared on our monthly report of delinquent accounts, giving the date or dates of the report.

It was very little used, because the monthly statement contained all the information and this form was only for information that might be wanted in the meantime.

Offered in evidence Government's Exhibit No. 64, printed in Exhibit Book, p. —.

Form 26 is a mimeographed form made up at the Association's office, giving bag returns, with a space for "Total bags returned" and "Total bags rejected." This report was made quarterly.

Offered in evidence Government's Exhibit No. 65, printed in Exhibit Book, p. —.

[fol. 187] Form 19 is a compilation of the figures received on Form 26, Government's Exhibit No. 66, giving the member companies' names, the total bags returned to each, the total bags rejected, and the percentage. It gives also, for comparison, the percentage rejected during the same period of the year before. It was sent out quarterly.

Offered in evidence Government's Exhibit No. 66, printed in Exhibit Book, p. —.

Form 28 is the analysis showing commitments and shipments on various classes of construction, by States, and is compiled from the Association's report on contracts. It shows the amount of contracts, shipments to date and unshipped balance on State and municipal work, bridges, concrete roads, dams and water power, sewers, industrial operations, Government work, housing operations, railroad operations, street paving. Anything else which would not come under those specific heads, would be classified under miscellaneous. It was issued quarterly.

Offered in evidence Government's Exhibit No. 67, printed in Exhibit Book, p. —.

Since I have been with the Association, these forms have been changed to the extent of being printed so as to get all the information on one sheet instead of three sheets. Two new forms have been added since I have been connected with the Association. They are graphic charts. Form 30 shows in picture form what Form 12 shows in figures. Form 31 shows in picture form what the credit reports show in figures. These forms 30 and 31 were sent out monthly with the respective reports.

[fol. 188] Cross-examination by Mr. Cox:

The Association and its activities have been precisely the same ever since I became connected with it on May 13, 1918. The things done by the Association and the way those things have been done have been in every substantial respect the same.

The business of the Association is confined to dealing with these four subjects that have been mentioned, that is, specific job contracts, credits, freight rate books and statistics of production, ship-

ments and stocks on hand. The business of the Association is carried out by getting certain information as to those four subjects, putting that information on printed or mimeographed reports and sending those reports to the members. The Association simply repeats or tabulates this information without drawing any conclusions from the information or making any suggestions in connection with those subjects. The Association is in substance simply a mechanical multiplying and tabulating machine.

The reports that we send to the members go also to the Federal Trade Commission regularly, just as they go to the members. The Association kept minutes that contained literally every word that anyone said at a meeting, taken down verbatim, whether trivial or important, or what not, and the minutes of all the meetings were sent to the Federal Trade Commission.

The meetings were attended usually by the sales managers and/or the credit men. For instance, in the case of the first company mentioned in the indictment, I have never seen the president of the [fol. 189] company or the treasurer, but the credit man has attended in connection with credit matters and the sales manager in connection with specific job contracts.

Some of these reports or services of the Association go to those who are not members of the Association. The Helderberg Company, for instance, a cement manufacturing company that is not a member of the Association, has always been sent the credit information. The freight rate books went broadcast almost. When outsiders would request those freight rate books we would send them. For instance, the New York Highway Commission has been provided with several copies. On the last occasion we sent them nine to be distributed among their divisional engineers. Some of the others that get the freight rate books are the Clinchfield Company, the Canada Cement Company, the Tidewater, the Sandusky, the Crescent, and others.

Not all the members of the Association get all four of the services. The Glens Falls and Security Companies, two of the defendants, get the credit services, the freight rate book service and the statistics of cement in sight, but have nothing to do with the contract activities of the Association.

Taking up the four separate services separately, a specific job contract is a contract for the future delivery of cement on a specific job covering a period of time. It is a contract to supply the cement that will be required in a particular piece of construction. They always relate to delivery sometime in the future and at a price named [fol. 190] in the contract, and the obligation of the manufacturer is only to supply the cement to be used on that job and not to supply cement for any other purpose. In the year 1919 the specific job contract business was 16% of the total business of these manufacturers. In 1920 it was 25%, in the other years 30%.

The activities of the Association in connection with contracts are limited strictly to these specific job contracts, and the Association has nothing to do with other transactions of the manufacturer, nothing to do with three-quarters of his business during 1920, and more than two-thirds of his business during 1921.

The Association has nothing to do with any specific job contract business while it is in the stage of offer, quotation or anything of that kind. After a contract is closed the manufacturer who is using this service of the Association sends to the Association one of the cards which gives enough information about that closed contract to enable the job to be fully identified and the contract matched with other contracts. That is what it amounts to. We also get from the manufacturer any corrections in contracts as they occur, as, for instance, that they have been cancelled. And we get one other thing from the manufacturer in connection with contracts and that is at the end of the month the information which shows to what extent that contract is alive. That is, whether it has all been shipped, how much shipped, and the balance unshipped.

That is all we get from the manufacturer in connection with these [fol. 191] contract reports. The rest consists of our duplicating that and sending it out and making certain comparisons with what the totals show for that year and the year before.

These specific job contracts are made by the manufacturer's representative and sent to the home office of the manufacturer, and from the home office to the Protective Association, and by the Protective Association to the other members. That necessarily involves several days. The first contract shown me on my direct examination is an instance where two weeks had elapsed between the time the contract was made and the time it came to the Association.

The first contract information that we send to the manufacturers is Form 7, which goes out every day. That shows, for instance, in Exhibit No. 16, that the Lehigh Company has closed a contract for the construction of New York State Highway, known as road No. 1334, part 1, Depew, New York. If another manufacturer has a contract for the cement to be used in that same piece of construction, he knows that it is a duplicate. But if further down he finds that the contract of the Lehigh Company to supply that cement has been cancelled, he has reason to believe that his contract is all right. That is the purpose of sending out these contracts for specific jobs to the different manufacturers, so that they can match them up.

Those duplications which have not been done away with during the month appear in the book report Form 10. For instance, on page [fol. 192] 5 of Exhibit No. 26, there is a contract for the cement for the Alumni Memorial Building for the Massachusetts Agricultural College, the Atlas Company being the manufacturer, and Elder & Company the purchaser, and Calson Company the contractor, and the next contract is also for cement for the Alumni Memorial Building for Massachusetts Agricultural College, the New England Pulp & Plaster Company being the purchaser and the Calson Company being the contractor, that contract being with the Nazareth Company. The first contract is for 2,000 barrels, the second is for 1,500 barrels. There is nothing to indicate on the report whether or not the contractor will require both lots of cement or only one. Either of those manufacturers could call on the Association to send someone to find out what cement was going to be used for that job. That operates as shown by the following illustration from the records of

the Association: There were two requests to investigate a particular contract between the Alpha Cement Company and Akron Sewer Pipe Company for cement to be used in constructing certain named roads in Cleveland, Ohio. One of these requests to investigate came from the Alpha Company and the other from the Universal Portland Cement Company. The Association's investigator was then given Form 2, setting forth the facts from the contract which was for 25,000 barrels of cement. The investigator went out to Cleveland and reported that the contractor who had been awarded the contract for these streets would not use any cement under this contract but would use about 10,500 barrels of Universal cement under another contract.

File offered in evidence, Defendants' Exhibit No. D-2. Printed in Exhibit Book, p. —.

[fol. 193] That an illustration of what we referred to in the Association as duplication, where two companies in one way or another happen to turn up with contracts to supply the same cement on the same work. It is also an illustration of how one company comes to have the contract of another company investigated. That is, the manufacturer sees on the report that another company has a contract for work for which he has already contracted and he sends in to ask that that be investigated. It also illustrates what I have here spoken of as padding, in so far as the contract gave the dealer a call on 25,000 barrels of cement for that work, whereas only 10,500 barrels would be required to complete that work. 14,000 barrels out of the 25,000 would have been padding even if there had been only one contract to supply that cement.

Another illustration showing particularly how these uncertain obligations came into existence is a specific job contract from our files for 15,000 barrels of cement for delivery at Keyser, West Virginia, for use in seven and one-half miles of county road. The Association's investigator on visiting the place found that when the bids were called for it was hoped that a concrete road could be built, but that the funds did not permit it, so no cement would be required under the contract.

Offered in evidence Defendants' Exhibit No. D-3. Printed in Exhibit Book, p. —.

In connection with these investigations we send the investigators [fol. 194] printed instructions in lots of about fifty, so that they may use them in their work. These are like this specimen.

Offered in evidence Defendants' Exhibit No. D-4. Printed in Exhibit Book, p. —.

We don't investigate all specific job contracts. We investigate only those that we are requested to investigate, that some member mentions as requiring investigation for one reason or another. The investigations that we make relate only to the work and the requirements of the work, that is, the specific job. The investigator does

not investigate prices or practices, or anything of that kind. It is simply the requirements of a specific job, how much cement it will require.

This file illustrates how these contracts that are apparently contracts come into existence, although the job has not been awarded to the dealer or contractor. Investigation showed that that contract for 10,000 barrels of cement to build a high school in Pennsylvania had been made although the contract to build the school had not yet even been advertised for bids.

Offered in evidence Defendants' Exhibit No. D-5. Printed in Exhibit Book, p. —.

This file illustrates a different class. It is a case where the manufacturer requested an investigation of its contract for 15,000 barrels to be used in paving streets in the Bronx, New York, the contract being dated December 17, 1919. 2,400 barrels were shipped on the [fol. 195] contract and the balance due September 1, 1920 was 12,514 barrels. Upon investigation it turned out that those streets were not to be paved and no cement would be required for that work. It is a case where there wasn't any such specific job and yet 2,400 barrels had been ordered out on the representation that it was for that work.

Offered in evidence Defendants' Exhibit No. D-6. Printed in Exhibit Book, p. —.

The next illustration is where a specific job contract was made for 10,000 barrels of cement and upon investigation it was found that the work would require only 20 barrels.

Offered in evidence Defendants' Exhibit No. D-7. Printed in Exhibit Book, p. —.

Without referring to any more illustrations of duplication and padding of specific job contracts, I have had the contracts listed in Form 10 of September, 1920, introduced on my direct examination as Government's Exhibit No. 26, checked for duplications and find in that report alone a total amount of 2,629,482 barrels which are apparent duplications, that is, cement for the same work from different people. That report covered three months and shows only the duplications that had not disappeared from our records by the cards showing cancellations or completions before the report was published.

[fol. 196] As to padding, the extent to which that goes is shown by the fact that during 1920, according to our records, the total amount of cement mentioned in specific job contracts investigated was 9,233,160 barrels. The total actual cement requirements of those same specific jobs as found by our investigators was 5,703,130 barrels, a total difference of 3,530,030 barrels, or an average difference of 1,539 barrels per contract. The number of contracts investigated was equal to 46% of the total number of contracts filed in 1920. In other words, our experience with the contracts investi-

gated in 1920 was that three and one-half million barrels represented overestimating or padding, that is, cement that would never be called for.

This investigation has not operated to keep down or curtail the number of specific job contracts. On June 1, 1920 there were 23,606,000 barrels of cement under specific job contracts, an amount larger than ever before. Our work has not cut down the number of such contracts. It has merely served to distinguish between reliable obligations and those which are simply duplications.

All the other contract activities of the Association consisted in issuing forms which are summaries of matter in this Form 10, Government's Exhibit No. 26. One of them, Form 8, Government's Exhibit No. 16, shows the amount contracted for to date, and Form 9, Government's Exhibit No. 25, shows the same thing monthly. Another shows it divided up by states, that is, how much has been contracted for in New York, how much in New Jersey, and so on. That is No. 11, Government's Exhibit No. 27. Another shows the [fol. 197] different work, how much for sewers, roadways, and so on. That is Form 28, Government's Exhibit No. 67. And another, Form 29, compares the amount with the amount on the same date a year before. That is the substance of all the activities relating to contracts.

On credits we receive a list of those who have unpaid accounts more than 60 days overdue and send that list to the members. That is all we do on credits, except that we compare the totals with how matters stood a year ago to see how collections have progressed.

The freight rate books consisted simply of giving a list of the official freight rates in a convenient pamphlet, that is, from the mills to the delivery points.

The statistics consist of only three items, clinker and cement ground, shipments, that is, what has been shipped, and stock on hand. That is all there is to the statistics, except that we add to them a comparison with the situation the year before to show how the movement has been.

All the forms which have been mentioned with the exception of the two showing the bags returned, and the percentage in good or bad condition relate to the four services which we have mentioned, namely, specific job contracts; credits; freight rate books; and statistics of production; shipments and stocks on hand; in other words, cement in sight.

We have never in any way reported any discount figures, or any figures of bin charges, or any figures of charges or allowances for bags, or anything about dealers except as the names of dealers may appear as those who have purchased cement in these specific job contracts.

We have not had anything to do with any prices except these past prices on which these specific job contracts have been closed. [fol. 198] The Association does not give any advice or decide anything about what any member shall do in regard to its specific job contracts. It simply sends in these reports of the facts, that is, what

contracts have been closed and the results of the investigation of the requirements of these specific jobs. That is as far as it goes.

I helped prepare the annual report of the Protective Association. The figures in it are substantially correct according to our files and record.

Put in evidence Defendant's Exhibit D-9. Printed in Exhibit Book, p. —.

Redirect examination by Mr. Fowler:

The Association's investigators or inspectors or checkers did not ascertain anything about the financial responsibility of those making contracts. The only thing they investigated was the requirements of the job and whether the contracts were duplications or padding.

I don't know whether the contract was cancelled if it was a duplicate. As to whether the general rule was to cancel one of the contracts where it was found to be duplicated, that is the duty of the member companies; not the Association. The member company does that. The Association had nothing to do with the cancellation. If the investigators' report showed that a contract called for more cement than would be required it was the member company's duty [fol. 199] to cancel the contract for the excess cement. I am not familiar with the handling of these contracts and the disposition made by the manufacturers. All I know is that the investigator is sent out to get the information which he gets as correctly as possible, and reports to the Association office. The result of his finding is submitted to the manufacturer who requested the investigation. That is the purpose of it all and that is as far as it goes. I cannot recall an instance coming to my attention where one of the contracts was not cancelled when two were made for the same job, and, as a matter of fact, I know nothing about the reduction of the quantity of cement involved in cases of padding. The interest of the Association ceased with the submission of the information to the manufacturers. We did not follow it up after that. We endeavored to obtain full information upon the subject and transmitted it to all of the members. We did not follow it any further. The members would act upon the information, but the Association would not pay any special attention to the slips sent in reporting that an order was being cancelled or the quantity called for reduced. The reports of the several members of the Association showed every contract which had been cancelled, in whole or in part, and such information was promptly sent out to every other member of the Association so that every member could tell exactly what every other member was doing with respect to every one of the specific job contracts. The first report made of a specific job contract showed the price and [fol. 200] when such reports were compiled and sent to the other members of the Association, each member had in his possession knowledge of the amount that was charged up to every other member of the Association on every specific job contract. The specific job contracts constituted about 25% of the total volume of business done by the members of the Association. The Glens Falls Com-

pany and the Security Company were not furnished information with reference to these specific job contracts because they had not furnished the Association information with respect to their specific job contracts. Those companies only received information pertaining to statistics, credits and freight rate books. The Helderberg Company received only information pertaining to credits.

We furnish thirty copies of all reports of our Association to the Midwest Cement Credit and Statistic Bureau, at Chicago. We do not send it to any other association.

In 1920 it cost to run the Association, a total of \$62,744.64.

I do not know how it was determined which of two duplicate contracts should be given up. That is not a matter within the scope of the Association. It is a matter for the companies themselves and not for the Association.

[fol. 201] Recross-examination by Mr. Cox:

When the specific job contract report went to the manufacturer from the Association, the Association did not follow up in any way what the manufacturer did with respect to his contract on that job. That was exclusively for the manufacturer to do as he chose. We did not follow it up in any way. When I spoke of the manufacturer's duty, I did not mean there was any obligation on him to do one thing or another—he could do as he wished about the matter.

Pursuant to agreement between counsel subsequently reduced to writing and introduced as Government's Exhibit No. 118, printed in Exhibit Book, p. —, the Government introduced the following exhibits:

Government's Exhibit No. 68, printed in Exhibit Book, p. —;

Government's Exhibit No. 69, printed in Exhibit Book, p. —;

Government's Exhibit No. 70, printed in Exhibit Book, p. —;

Government's Exhibit No. 71, printed in Exhibit Book, p. —;

Government's Exhibit No. 72, printed in Exhibit Book, p. —;

Government's Exhibit No. 73, printed in Exhibit Book, p. —;

Government's Exhibit No. 74, printed in Exhibit Book, p. —;

Government's Exhibit No. 75, printed in Exhibit Book, p. —;

Government's Exhibit No. 76, printed in Exhibit Book, p. —;

[fol. 202] Government's Exhibit No. 77, printed in Exhibit Book, p. —;

Government's Exhibit No. 78, printed in Exhibit Book, p. —;

Government's Exhibit No. 79, printed in Exhibit Book, p. —;

Government's Exhibit No. 80, printed in Exhibit Book, p. —;

Government's Exhibit No. 81, printed in Exhibit Book, p. —;

Government's Exhibit No. 82, printed in Exhibit Book, p. —;

Government's Exhibit No. 83, printed in Exhibit Book, p. —;

Government's Exhibit No. 84, printed in Exhibit Book, p. —;

Government's Exhibit No. 85, printed in Exhibit Book, p. —;

Government's Exhibit No. 86, printed in Exhibit Book, p. —;

Government's Exhibit No. 87, printed in Exhibit Book, p. —;

Government's Exhibit No. 88, printed in Exhibit Book, p. —;

Government's Exhibit No. 89, printed in Exhibit Book, p. —;

Government's Exhibit No. 90, printed in Exhibit Book, p. —;
 Government's Exhibit No. 91, printed in Exhibit Book, p. —;
 Government's Exhibit No. 92, printed in Exhibit Book, p. —;
 Government's Exhibit No. 93, printed in Exhibit Book, p. —;
 Government's Exhibit No. 94, printed in Exhibit Book, p. —;
 Government's Exhibit No. 95, printed in Exhibit Book, p. —;
 [fol. 203] Government's Exhibit No. 96, printed in Exhibit Book,
 p. —;
 Government's Exhibit No. 97, printed in Exhibit Book, p. —;
 Government's Exhibit No. 98, printed in Exhibit Book, p. —;
 Government's Exhibit No. 99, printed in Exhibit Book, p. —;
 Government's Exhibit No. 100, printed in Exhibit Book, p. —;
 Government's Exhibit No. 101, printed in Exhibit Book, p. —;
 Government's Exhibit No. 102, printed in Exhibit Book, p. —;
 Government's Exhibit No. 103, printed in Exhibit Book, p. —;
 Government's Exhibit No. 104, printed in Exhibit Book, p. —;
 Government's Exhibit No. 105, printed in Exhibit Book, p. —;
 Government's Exhibit No. 106, printed in Exhibit Book, p. —;
 Government's Exhibit No. 107, printed in Exhibit Book, p. —;
 Government's Exhibit No. 108, printed in Exhibit Book, p. —;
 Government's Exhibit No. 109, printed in Exhibit Book, p. —;
 Government's Exhibit No. 110, printed in Exhibit Book, p. —;
 Government's Exhibit No. 111, printed in Exhibit Book, p. —;
 Government's Exhibit No. 112, printed in Exhibit Book, p. —;
 Government's Exhibit No. 113, printed in Exhibit Book, p. —;
 Government's Exhibit No. 114, printed in Exhibit Book, p. —;
 Government's Exhibit No. 115, printed in Exhibit Book, p. —;

[fol. 204] ARTHUR J. WHIPPLE, called as a witness on behalf of the
 Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

My home is in Chicago, Ill. I am promoting the automobile industry. I was salesman and sales manager of the Metropolitan Division of the Atlas Portland Cement Company from the fall of 1910 to about the first of November, 1915. My district comprised the City of New York, Long Island, the State of New Jersey, and Westchester County.

During 1911, the Atlas prices were five cents a barrel higher than the other manufacturers generally. During that period the Atlas did not at any time underbid its competitors. In late 1914 and early 1915, there was more active competition so far as underbidding was concerned than at any time during those five years. Prices were actuated. The general trend was downward from perhaps the early fall of 1914 until the late spring of 1915. The lowest point that was quoted was 58 cents a barrel at the so-called Lehigh Valley case. It advanced considerably the latter part of the summer of 1915 and early fall of 1915, perhaps—oh, 40 cents a barrel. I think it

was above a dollar in the latter part of 1915. Fluctuations in price were frequent during that period.

We made our prices at that time at the point of delivery. That price included freight to the point of delivery from the mill. I did not have authority to change the price. It was given me by a superior.

[fol. 205] At that time the Atlas Company shipped from its mill at Hudson, on the Hudson River, and from its mill in the Lehigh Valley District to the Metropolitan District. I sold at the same price regardless of from which mill the cement came. The freight rate was different. I received my prices from the sales manager, Mr. C. A. Kimball.

Cross-examination by Mr. Stimson:

In the early days, before the executive order of President Taft, of April 30, 1912, fixing the specifications for Portland cement, each of the different companies used to claim that their brand was better than the others. That was the situation at the time I was testifying about, when the Atlas brand was quoted a little higher than others. At that time it was recognized that the Atlas brand was a rather better cement than some of the others. Later on, after the uniform standard took effect, cement became more uniform. Atlas lost their priority.

In the early part of 1914, the prevailing price at the mill of cement was around 85 or 90 cents. It began to drop late in 1914. When one company dropped from 90 to 85, the other companies came to 85 pretty quickly. Otherwise they would sell very little cement and be left high and dry. During that period when cement was going down, as fast as one company would drop the other companies would have to meet it pretty quickly. That was uniformly true all the way down. In these successive steps the price was uniform for a time, just as quickly as the other companies had time to meet the first [fol. 206] drop; and it stayed so until somebody dropped it again. My recollection is that the drops were 5 cents each. My recollection is that Atlas stopped at 65 cents, but some of the others sold cement at 58. I think it touched its bottom at 65. When I went to Chicago late in 1915, cement was above a dollar at the mill in this territory. The Cement Manufacturers' Protective Association had not then been formed at all.

During that period when prices were going down, the Atlas prices were uniform at the different drops with the other competitors, until it got down to 65. There wasn't any five cent difference at that time at all. That had long since passed away.

It was the policy of the Atlas to treat all dealers alike. That was generally true of the other companies. If we charged one dealer a higher price than another, he would think it was unfair and we wouldn't get much more of his business.

At that time there was considerable trouble about duplications and padding of contracts for future delivery on specific jobs. The Atlas was taking great care to have the cement that it sold applied to the

job that it sold it for. The contract at that time provided that the cement should be used only on that job. It covered the cement requirements of the job. There was a good deal of trouble in regard to contractors or dealers duplicating on their contracts and a good deal of trouble about padding—making a contract for a larger [fol. 207] amount than the requirements of the job. Atlas was struggling with that situation at that time. It took some steps, but nothing that was really organized or systematically directed.

The dealers and contractors always wanted a delivered price.

At that time the Atlas Company maintained a traffic department for the purpose of computing freight rates from the mills to the different points of delivery. There were in that department at least as many as eight or ten men engaged just on that work alone. The Atlas Company also had a traffic department in Chicago.

Defendants' Exhibits D-24 to D-34, inclusive, identified, offered in evidence, printed in Exhibit Book, pp. —. The signature J. R. M. on some of these exhibits is the signature of Mr. J. R. Morton, President of the Atlas Company.

Mr. McFarland was Assistant Sales Manager of the Atlas Company up to some time in 1915, when he became Assistant to the President. Mr. Holman was Assistant to the President. Mr. McConnell was in the sales department of the Atlas Company.

Redirect examination by Mr. Fowler:

When I was with the Atlas Company there was some padding of [fol. 208] contracts and some duplication of these specific contracts. We handled that kind of a situation by going to the dealer and telling him what we thought of him for not living up to his contract with us. I don't recall specific contracts being cancelled as duplicates. I think perhaps there were. I know contracts were sealed because of being padded. Our company did it for itself. A dealer would contract for the requirements of a specific job calling for, say, to illustrate, 10,000 barrels of cement and the requirements of the job would be as a matter of fact only 5,000 barrels of cement. If cement advanced in price the dealer would call for delivery of all the 10,000 barrels; if cement went down in price, he would not call for more than 5,000 barrels, and often if he could buy the cement cheaper from another manufacturer he would do it. In my day when we found out that a dealer had made a contract for more cement than he would need, we would cut the amount of the contract to what its requirements should be. We investigated for ourselves and convinced ourselves that he had ordered too much cement. Then we would talk the matter over with the dealer. Of course if we cancelled the contract, he could not help it.

Sometimes in selling for a specific job the price was also below the price at which cement was being sold generally, because we wanted that specific job which had requirements of a considerable quantity. The general practice was to quote the contractor in the dealer's territory 10¢ per barrel higher than we quoted the dealer. This was

considered a protection to the dealer. There were some instances where the difference might have been 5¢ per barrel, but I do not recall them. The big contracts were handled on an altogether different basis.

[fol. 209] The Government offered in evidence under the stipulation Government's Exhibit No. 118, portions of the minutes of meetings of the Cement Manufacturers' Protective Association, Government's Exhibit No. 117, and Government's Exhibit No. 119* to Exhibit No. 185, inclusive, which are printed in Exhibit Book, pp. —, except Exhibits Nos. 167, 169, 175, 183, 201, 202 and 203, which are not printed by consent.

[fol. 210] LUTHER KELLER, called as a witness on behalf of the Government, being first duly sworn, testified as follows:—

Direct examination by Mr. Fowler:

I reside at Scranton, Pa. I am in the builders' supply business. I have been handling cement for forty years or more, ever since there has been Portland cement to handle. The name of my company is Luther Keller Company, Incorporated. I have sold different brands, Atlas, Saylor's, Giant, Vulcanite, Edison, Phoenix, Bath, Nazareth. I sold for substantially the same companies before 1916. We have a retail and wholesale cement business. We sell frequently in car lots, but the bulk of my business is done through my yard, our retail yard.

What I sell at wholesale I order from the manufacturer for the consumer. Sometimes it comes to me and sometimes is shipped direct to the consumer, but it does not go through the yard.

Sometimes I send the order to one manufacturer and sometimes to another one.

I handle specific job contracts. At times the cement on those contracts goes through my yard. We deliver it in truck lots instead of car lots. Some of it we ship direct to the contractor in car lots. I take orders for those *those* specific contracts. We contract [fol. 211] with the manufacturer for the cement. We charge it direct to the contractor; the manufacturer has nothing to do with the contractor. At times I have a contract with a contractor, and yet I have had very very few contracts—generally a verbal contract with the contractor.

Since 1916 prices have been practically uniform. I don't know of any variation that has occurred in recent years; prices have been the same; that is, the quotations have been the same—and the prices. The discounts are the same—ten cents a barrel if paid within ten days from date of invoice. It is the same rule by all the companies. In regard to acceptance, I think generally I am given fifteen days to accept a quotation, but that is frequently extended. Some companies have been a little more generous than others in that respect. There is no difference in the contracts that I am required to make by the

several companies as to the terms and price. I don't know how those contracts read, really, but as to terms of payment, there is no difference. In regard to the allowances for returned bags, the bags are returned freight prepaid and the count and inspection at the factory is to be accepted. The amount allowed for bags returned by the several companies is ten cents—generally the same. With reference to bin tests, there is one brand of cement that we handle that we generally pay six cents a barrel more, for what is known as the autoclave test. That brand is Nazareth.

I buy the cement f. o. b. at the place of delivery. They all quote the price of cement at the place of delivery, at Scranton, for instance; at my yard, or wherever I would sell the cement.

[fol. 212] The prices of cement in 1914 and 1915 were a good deal lower than they were in the last year. For instance, at our place there was a difference of 25 cents a barrel on freight; it cost more. In 1913 and 1914 the freight to Scranton was 23 $\frac{3}{4}$ cents a barrel. To-day and last year it was 52 cents.

In 1914 my records show there were two changes in price of cement, and in 1915 there were three or four changes. In 1914 the lowest price I have is \$1.49 at Scranton. In 1915 the lowest price at Scranton was in April, \$1.25; then in May it was \$1.35; in June, \$1.45; August, \$1.55; October, \$1.65, and December, \$1.70. January, 1916, it was \$1.70. It was \$1.70 until July; in August, \$1.90; in September it was \$1.70; October, \$1.80; November, \$1.90 and \$1.80—\$1.80 and \$1.90 in November, and \$1.90 in December. Those prices always include bags and freight. In February, 1920, it was \$2.72; in May it was \$3.14. I think the early part of May; the latter part of May it was \$3.32; in August \$3.87; in July it was \$3.62; in September it was \$4.03; in October it was \$4.05. This included the bags, and I think at this time the bags were higher priced bags. Formerly bags were 10 cents, but I think in 1920 they were 25 cents. I infer that this price, \$4.05, included bags at 25 cents, or a dollar a barrel. In December it was \$4.05, and then it dropped to \$3.79.

I had very little experience with the checkers sent around by the Association. I had a man call upon me once to check up and [fol. 213] I refused to have anything to do with him. I refused to even answer his questions. I did not hear anything about my refusal later from any of the companies.

There may be several reasons which led me from time to time to buy cement from one company in preference to another. There are times when contractors call for certain cement. What we consider fair treatment of the manufacturer, has a lot to do with our dealing, so far as cement is concerned. I was visited by salesmen of these various companies from time to time.

[fol. 214] Cross-examination by Mr. Stimson:

I have seen the cement business develop very largely. My recollection goes back pretty nearly to 1880. There was only 240,000 barrels made in that year. I think Portland cement was then made

only over in the Lehigh Valley. Last year one hundred million barrels were made. There is no other building material that has advanced anything like as rapidly.

I am a dealer and I look at this business from a dealer's standpoint. I think the dealer performs a pretty important function in the distribution of cement. In the case of my retail business I get the cement in car-loads and in that way I get the advantage of the lower car-load freight rate. It is much less in car-load lots. It goes through the warehouse. The bulk of the cement that I handle goes out in smaller lots. 85 to 90% is sold through our warehouse at retail.

When a contractor is building a building they generally like to have someone else store the cement for them. I often truck cement from our warehouse to a contractor. For instance, the Hotel Casey, at Scranton, took about six thousand barrels of cement and I think we trucked it all. That is, I held it until the contractor wanted it and then I gave him just what he wanted and no more.

The standard specification test is applied entirely except in the case of this Nazareth test that I spoke of. That is an extra test. In all my experience I have had only one case. All the rest used the standard specification test since, I think, 1912. The standard [fol. 215] specification had the effect of making cement uniform in the minds of the people at least. It blotted out the difference between brands. Generally speaking, it tended to make a man just as well satisfied with one brand as with another. If I found any one of these brands was selling five cents less than the other, I would buy the cheaper brand. From my observation that has unquestionably tended very strongly to produce uniformity in price.

In January 1915 cement went to \$1.44. In February it was \$1.39, \$1.34 and \$1.25. During those different price changes the price of all the brands went down. There was just as much uniformity then as there is now. It was lower, of course, but the uniformity was the same. It was just the same—uniform price.

All the companies employed salesmen before 1916 as well as after 1916. Salesmen representing the different companies call on us and try to sell their cement. They try pretty hard. They have tried just as hard since 1916 as they did before. I have seen no difference in their activities whatever.

In January 1917 the price of cement was \$1.90 and then \$2.00, and then February \$2.00, March \$2.15, April \$2.00, April \$1.90, May \$2.15, June \$2.15, July \$2.15. The war was on then. August, September, October and December, \$2.15. January, February, March, April, 1918, \$2.15. April, 1918, \$2.59 and then \$2.61. I think the War Industries Board was fixing the price for the Government in 1918. My quotations were \$2.73 in September, \$2.68 in October, \$3.28 in November, \$3.27 in December. There had been [fol. 216] an advance in freight rates that went into this. Freight rates were included in these prices, also bags and war tax. In 1918 when the War Industries Board was at work on cement, bags went from 10 to 25 cents, or one dollar a barrel.

During this period from 1916 on through 1917 and 1918, there was a similar change of price going on in the other materials that I handled. Everything that we handled was advancing at this time.

In January 1919 the price was \$3.27, March \$3.27, April \$2.72. It remained \$2.72 until the end of the year, until April 1920, then it began to rise. In 1920 there was a great scarcity not only of cement but of cars to ship it in. The strikes on railroads interfered. There was a shortage of coal and great difficulty in getting coal. I know factories that I was interested in had to stop on account of coal. The same conditions hit the cement companies. That lasted all summer. The real trouble was car shortage, which affected both the delivery of coal to the cement mills and the delivery of cement away from the mills. The companies couldn't get the cars in which to ship cement.

In December 1920 the price was \$3.79. In January it was \$3.79, in March \$2.93, April, May, June, July and August \$2.93, September, October and November \$2.68, and December \$2.53. I think bags had been reduced to ten cents at that time.

The dealer's differential is intended to compensate a dealer for the services which he renders. I have sold cement without getting a differential. I don't want to do it and I don't think I should do it from a business standpoint, but there are conditions. For in [fol. 217] stance, I am selling a customer of mine and he is offered cement for less than I am offering him. I might cut the differential I might sell it to him for cost. I might do it. I think the amount of that differential is too small if anything. I don't think a man should handle a car of cement for 10 cents a barrel and carry the account. The cement manufacturers have suggested that I should cut the 10¢ dealer differential in order to get a particular job, but I have always refused to do that. I insist on getting my differential of 10¢ per barrel. I have known of cases where the cement companies have dealt directly with a contractor without going to me. I have simply stopped buying cement of them.

Redirect examination by Mr. Fowler:

The Bath Company is one with whom I quit dealing because it had gone straight to the contractor. I can't fix the date, but it has been since 1916. The Lawrence Company was another that I quit dealing with on account of that. That was before 1916.

Nearly all the companies have salesmen. I think all have salesmen and they all come to see me more or less.

My recollection is that prices were uniform prices back in 1914 and 1915. This record shows the different people we have been buying of and this would lead me to answer that all the prices were about the same. We generally have the quotation from the factory. There is no difference in the price quoted at the present time and has not been any difference in the last six or eight years.

[fol. 218] EURIE L. MERRIMAN called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

My home is in Scranton. My business is building supplies. My place of business is in Scranton and I also have a place at Bloomsburg. I have been handling cement for about thirty years. I have handled as much as 50,000 barrels in one year. I have been handling seven brands in the last six years, Alpha, Dexter, Allentown, Lehigh, Edison, Penn-Allen, Giant and Pennsylvania. The prices which they have quoted me have been practically uniform. When one would change usually in two or three days we would get the changes from the others.

The terms of discount are 10 cents a barrel, dealer's discount in 10 days. There is no difference as to that between the different companies.

We are allowed a credit for bags at the price they are charged. There is not usually any difference in price allowed by the several companies. There have been times when some of the cement companies did not advance their price on bags when the others did. The Whitehall Company I think did not advance the price on bags. It is not one of the defendants in this case.

I buy my cement f. o. b. destination. I usually am allowed 15 days to accept the quotation by all the manufacturers. They ex-[fol. 219] tend, however, on request, a further period where you quote on contracts. When there is a change of price I am never notified of it in advance. The terms of the contracts I make with these several companies are practically the same.

A blanket contract as I interpret it is a contract that provides for a certain amount of cement to be taken in a specified time, but to be used where you choose to place it. There was a time when I could get a blanket contract. That is several years ago. I can't get a blanket contract from any company. They have cut out that practice of giving blanket contracts in the neighborhood of fifteen years ago. They have not been allowing it since that time.

I take specific job contracts. On one occasion one of the cement companies came into our office and requested to know the exact amount of cement that we had furnished on this particular contract. We gave it to them. They went to the parties to whom we sold, I think, to check it up, although I am not positive of that. That was my only experience.

Cross-examination by Mr. Stimson:

I can't say that there has been very much difference in the uniformity of price as it existed before and since 1916.

In the summer of 1920 the Pennsylvania Company sold cement 25 cents under practically all the others for two months or so. I [fol. 220] have had some of these companies shade their prices from the quoted prices within the past three years. The Edison Com-

pany have done it. They did it on one particular contract of mine. They made a difference of 10 cents a barrel. I know of Bath doing the same thing in the past three years, only from hearsay.

A specific job contract means a contract where the buyer of the cement agrees that the same is to go on a specific job.

When the investigators came to me they told me they wanted to check up the amounts required on the job with the amounts carried in the contract. I had no objection whatever to their doing that. I thought the principle was wrong—their distrusting me carrying out my contract. I think those men were not doing anything except trying to see whether that contract was being carried out.

As a dealer, I prefer that all cement be sold f. o. b. delivery, because it simplifies the transaction of business. I do not have to calculate the freight rates myself.

Salesmen from the different companies call on me trying to sell their cement. They have always done so and do so still.

Cut prices have been frequent in the trade with certain cement companies.

Redirect examination by Mr. Fowler:

The Pennsylvania Company sold cement at one time for about two months less than the other companies. I think it was 1920. [fol. 221] Pennsylvania was 25 cents under the others for about two months. They did not cut the price—they simply did not advance their price when the others did. In the spring of 1921, the Edison Company reduced its price 10 cents, to meet the price of Whitehall on a contract for a mill in Scranton, calling for something over a thousand barrels. None of the other companies offered to reduce the price.

Two or three times a salesman has told me that the price was going to advance and allowed me to place an order.

Recross examination by Mr. Stimson:

When that has happened one company had already changed and then another company's salesman came and said I had better take an order from his company before it changed.

In 1920, the cement companies had plenty of cement but could not ship it because of inability to get cars. The same difficulty existed with respect to all building materials.

[fol. 222] BERT H. HANBY, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I am secretary, treasurer and manager of the sales department of Batavia Lumber and Coal Company, of Batavia, N. Y. We have been

handling cement about ten or fifteen years, principally Alpha and Atlas. We have handled as high as 20,000 barrels in one year. We have always handled Alpha and have been handling Atlas about two years. During those two years the prices that have been quoted us by those companies have been uniform. Those two companies allowed us 10 cents a barrel discount for cash within ten days. They usually give us 15 days to accept a quotation. The contracts that we make with the two companies are about the same. We never have any advance notice with reference to the change of prices. I believe the change of price dates from the receipt of the quotation. Both companies allow 10 cents credit for return of bags. We have been quoted cement of other companies besides these two. I don't think there have been any differences in prices quoted. If the cement is bought under contract, we have to specify where it is going and what it is going to be used for. We have never tried to make what is known as a blanket contract with any of the companies.

We usually buy one car at a time. We have bought five and ten cars for a specific job and those were accepted. We have never bought under a carload at a time. I do not recall that we have ever tried to buy a large quantity of cement for our warehouse stock. We buy it as we need it. I do not remember the price of cement in 1914 and 1915 except that the price was much lower than it is now.

[fol. 223] Cross-examination by Mr. Stimson:

If one of the two brands we handled offered to me at 5 cents lower than the other, I would take the one 5 cents less. If the difference was 2 cents, the same thing would apply. There is no 2 cents a barrel difference between the two cements. That is true, I think, throughout the trade as a whole. They are practically identical. The question of which we would take would be governed entirely by the price.

These companies employ salesmen who visit our office quite often. About two years ago, Mr. Standish, representing one of the two companies whose cement we handle, came around and got us to handle the cement he represented in addition to the other. He did not offer his cement at a cheaper price. Prices have changed up and down. When they have changed, there has usually been several days—probably three or four days—between the quotations that we got from one company and another. One company would send us a quotation first and then another would follow it.

Recross-examination by Mr. Stimson:

I believe these are the forms of contract for specific jobs now used by the Atlas Company and the Alpha Company.

Offered in evidence Defendants' Exhibits D-35 and D-36, not printed by consent.

[fol. 224] When I stated that these forms of contract were alike, I had not noticed that the Alpha Company retains title to the bags on the cement that is sold, while the Atlas sells the bags with the

cement. Both contracts contain a provision that if there should be any decline in the market price of cement during the life of the contract, the buyer will get the advantage of the lower price. That has been so for a long time. In case the price of cement goes up during the life of the contract, the cement company does not get the benefit of the rise. The buyer gets the benefit of any change of price, while the cement company does not. That is generally true in the trade. That has been a condition that has existed in the trade so long as I can remember. The buyer has always gotten the benefit of any fall in the price and the company has always been held to the low price in case prices went up.

[fol. 225] EDWARD M. RODROCK, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

For sixteen years I have been a dealer in cement, coal and mason materials at Paterson, New Jersey. I have been dealing in cement for sixteen years. I have been selling Vulcanite and Giant for sixteen years. Atlas, Lehigh and Nazareth, four to eight years. I have handled Bath and Hercules and some Saylor's. We handle about thirty-five thousand barrels a year, retail and specific job contracts. We never buy in less than car-load lots.

For the last six or eight years there has not been any difference in the price of cement that has been quoted to us by the several companies at the same time. Salesmen of these various companies call to see me very often. I have not had periodical quotations from the cement companies whom we have not been representing. Salesmen from the other companies, nearly all of whom I know, come in and make quotations. There has not been any difference in the prices quoted to me by the salesmen of the companies.

The discount I am allowed is 10 cents a barrel for cash in ten days from date of invoice. There is no difference in that custom between the several companies. There is no difference so far as prices and terms of payment and discount are concerned between the specific job contracts of the several companies.

[fol. 226] The allowance for bags returned at the present time is 10 cents each. There has not been any difference between the allowance from the several companies.

So far as I am concerned it makes no difference from which one of the companies I buy cement. There has never been one of them that has offered me cement on better terms. Now and then we buy cement from the several companies because we have customers demanding that particular brand of cement. One customer will like one brand and another customer another.

I had one experience with checkers. It was a contract with Mr. Pittit, of the Pittit Construction Company, covering some buildings for the National Silk Dyeing Company. The contractor had taken

some cement with his own truck from one factory to another and this young man representing the Protective Association called upon him and told him he had no right to take the cement from one job to the other, because it was not specified in the contract. He came to me and I immediately took it up with the company and criticised their movement for checking the man's methods. I had some correspondence about the matter with the Giant Portable Cement Company.

Letter dated October 18, 1919, from E. M. Rodrock Company to the Giant Portland Cement Company offered in evidence, Government's exhibit No. 186. Printed in Exhibit Book p. —.

[fol. 227] Reply thereto, dated October 20, 1919, offered in evidence, Government's Exhibit No. 187. Printed in Exhibit Book, p. —.

Letter from E. M. Rodrock to R. E. Griffith, dated October 24, 1919, offered in evidence, Government's Exhibit No. 188. Printed in Exhibit Book, p. —.

Typewritten and printed document, signed by the Cement Manufacturers Protective Association, dated October 20, 1919, offered in evidence, Government's Exhibit No. 189. Printed in Exhibit Book, p. —.

Letter from R. E. Griffith to Mr. Gaines, dated October 25, 1919, Manufacturers Protective Association, dated October 20, 1919, offered in evidence, Government's Exhibit No. 190. Printed in Exhibit Book, p. —.

Letter from R. E. Griffith to Mr. Gaines, dated October 25, 1919, offered in evidence, Government's Exhibit, No. 191. Printed in Exhibit Book, p. —.

Letter of R. E. Griffith to Mr. Gaines, dated October 27, 1919, offered in evidence, Government's Exhibit No. 192. Printed in Exhibit Book, p. —.

[fol. 228] Cross-examination by Mr. Stimson:

The paper shown me is the ordinary form of the Giant Company's contract for specific jobs and, I think, the form used in this case of Mr. Pittit. That case was a specific job case that was being investigated. I am familiar with the kind of clause in that contract which provides that the cement "is for use in the work described, and if the buyer shall sell or otherwise dispose of any portion of said cement or use any portion thereof in any work other than within described" the cement company may terminate the contract. In this case of Mr. Pittit the contractor had taken cement from one factory to another which was not listed in the contract—to one of the other factories of this National Silk Dyeing Company. The investigator thought he had diverted it from the job in question. Mr. Pittit thought otherwise and got very angry. Mr. Pittit was a pretty

valuable customer of mine and I did not want to lose him. The Giant Company backed me up in that pretty well. When I brought the matter to them they tried to smooth things down. I had executed this contract with the Giant Company and the investigator was trying to find out whether that contract which the company had signed with me was being violated.

Quotations which I receive as a dealer from the different companies at any given time are apt to be uniform. They change from time to time. There have been a great many changes, both up and down. The standard specification tests practically govern all sales [fol. 229] today. The general custom is to ask for cement which will conform to the test. Cement has become practically uniform. Whether I would pay any more for one brand than another would depend. If one company is going to give me better service than the other companies, I am willing to pay a little more for that service. Assuming that the cement was all at my door, I would not give any more for one kind than another—not a cent per barrel difference. It is all practically the same. In making my own choice I would depend on service. That would govern anybody who is buying cement, except that some insist on a particular brand as a tradition, because his father used it.

When it comes to a question not of dealers' prices but prices for a special job, I have heard of the price being cut. I remember the case of E. J. Riker, in New Jersey. I was one of the competitors for that. The Edison Company got it away from me for 10 cents a barrel. It was for about a mile and an eighth of concrete road which would take about six or seven thousand barrels. That was in June, 1921.

When prices have changed, there is an interval—two or three days possibly—between the time when one company has made its changes and the time when another company makes its changes. In 1919 Bath changed its price quite some little time before any of the other companies. The summer of 1920 was quite a strenuous time. The cement companies could not get cars with which to make their deliveries. I had trouble in that way to get my deliveries. I remember that the cement companies made unusual efforts to deliver some in unusual cars, open cars, some used trucks. They were [fol. 230] making absolutely every effort to deliver. Coal was scarce. That was another difficulty they had. The price up to \$15 and \$17 at the mines. It had ordinarily been around \$2.00 to \$2.65, \$2.75 for the grades of coal they used in cement making. There were embargoes on the railroads too. The prices of some cement companies went very much higher than the prices of others. I, as a dealer, or the cement company, as a manufacturer, could get almost any price that we asked for cement if we could deliver it. In looking for cement then I didn't go outside my own source of supply. If I had, it would have done me no good. All quotations were uniform, but the actual prices were different. The Bath Cement Company's was 50 to 75 cents a barrel different from the other six companies from whom I received quotations. I want to limit my answers about prices to the seven companies from whom we received quotations.

Redirect examination by Mr. Fowler:

My experience with the Bath Company was that I needed about seventy-five hundred barrels of cement for a job and I got it from the Bath Company by paying a higher price. I did not have that kind of an experience with the other companies. I never tried it with them.

I know of the times when the different companies change their prices only by receiving quotations. I cannot state the length of time it would take the quotations from the different people to reach me. The quotations came from different places and the mail might take 24 hours in some instances or it might take a day and a half, I can't answer the question definitely—as I said before, it would be received within two or three days.

[fol. 231] If one manufacturer had offered me cement at a cent a barrel under the others, that would be so small I do not think I would consider it. I would consider 10 cents a barrel, 5 cents a barrel, and that the company was responsible and would fill their orders. When I was buying cement for my general business, if one company had allowed me $2\frac{1}{2}$ or 5 cents more on a bag as a credit I wouldn't break away from my associations at all. I could not afford to. 25 cents a barrel would not be enough for me to break away from the association with the representative cement companies that I have. I consider that as an asset of my business. It would be worth more than that. But if I were a free purchaser on the market, and not the head of an established business, and was offered cement by one concern 5 cents cheaper a barrel than another, I would then take the cheaper one. All contractors do that right along, mostly every day, 2 cents a bag or 2 cents a barrel. I would take the cheapest I could get.

Giant Portland Cement Company specific job contract offered in evidence, Defendants' Exhibit No. D-37. Not printed by consent.

[fol. 232] ALLEN P. LOCKWOOD, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

For almost two years I have been engaged in the retail builders' supply business in Buffalo, N. Y. From April, 1917 to July, 1920, I was salesman for the Hercules Cement Company. Since then I have been selling cement as a retailer, principally Lehigh, also Penn-Allen, Knickerbocker, Alpha and a little Atlas. I have received quotations from some of the other companies. I sold about fourteen thousand barrels last year.

The prices quoted in the quotations given me at any one time since July 1, 1920 have not been any different.

When I was salesman for the Hercules Company I did not have any authority to change the price of cement. Mr. Goode, the sales

manager, told me the Hercules price. The Hercules plant is in the Lehigh Valley. When I had an order for cement in my district around Buffalo, as a salesman, I figured the price by taking the mill base plus the freight rate to Buffalo, or wherever the point may be, adding bags. I would ascertain the freight rate by a freight rate book I had.

In most cases I knew the prices of our competitors. There was a difference in our prices and their prices during 1917 and I am not sure whether part of 1918 or not. The Hercules price at that time [fol. 233] was lower than the other prices. The Hercules was a new company. I went with them in April, 1917. They put their cement on the market in June or July, 1917. We were underselling the other fellows a little bit. I think we did that throughout all of 1917 and maybe the early part of 1918. After that I often suspected there was a difference between the prices of the Hercules cement and the other cement, but Hercules was the same price as you would consider the market price of cement after that time. I have not handled Hercules since I have been a dealer.

Since I have been a dealer the quotations have been the same with all of them. There has not been any difference with reference to trade discount or cash discount. The terms are 10 cents a barrel cash discount in 10 days, 30 days net. The prices for returned bags have been changed once or twice, and I think they all changed about the same time. The specific job contracts as to terms of sale and the discount, and so forth, are practically the same. The wording might be a little different. The substance is the same so far as I know.

I had a little experience with checkers. I think there was one sent out once last year and he was checking up at least one of my contracts. After he left I heard no more from him.

Cross-examination by Mr. Stimson :

As a dealer I get my cement in car-load lots, break it up and sell [fol. 234] it at retail. In addition to that, in some cases I get some for people who are building big jobs, contractors. Ninety to ninety-five per cent of the cement that I handle goes into my storehouse to be retailed out.

These specific job contracts are contracts that limit the use of the cement to the particular job for which it is sold. A manufacturer of cement insists that when he sells for delivery at some point in the future, that the cement shall be applied to the job designated in the contract. In case the price goes up, I hold the cement manufacturer to the lower price he gave me in the contract. In case it goes down, he does not hold me to the higher price. I get the benefit. It is a one-sided proposition. The only thing that the cement manufacturer asks in those contracts is that the cement shall go on the job it is sold for.

As to my experience with the checker, I imagine they thought the contract was for a lot of cement for sidewalks in a village of that size, and I guess they came out to get some information as to the number of feet of sidewalks that they were going to put down to see

if it would require that much cement. If it had been too much, that would be what I would call a padded contract.

When Hercules commenced to sell in 1917, all the other companies had been established for many years. Hercules had nothing at all. In order to build up a business, it generally undersold the market. In that way it gradually built up a regular dealer business. After it had gotten that dealer business it did not sell [fol. 235] under the majority of the other companies. So long as it was building up a business, it was going around, trying to get jobs wherever it could, and after it had gotten established with dealers it tried to get quite as high a price as the other companies.

The standard specification test is the regular test applied to cement. Since that test has been applied there is no difference in quality which would warrant any difference in price. If I were a consumer on the market I would not pay any more for one brand than I would for another, even in the slightest degree.

The price has fluctuated up and down. When a company has come down, it has been followed by other companies within a week or less. Judging by my experience, a company that did not come down could sell absolutely no cement, or very, very little, practically none.

It is agreed that the Hercules Company joined the Cement Manufacturers Protective Association in May, 1917.

I remember in December, 1919, just shortly after Christmas one of the companies raised its price. The only way I can remember is that I wanted to get away for Christmas. I wanted to go to Cincinnati for Christmas and I was tipped off that Edison had raised their price and I was detained a few days because I was trying to get in a lot of new business on the strength of the new price. I thought the price was going up generally. Hercules did get quite a few contracts at that old price. They took a lot of orders. [fol. 236] In fact, they took so many orders that when the real raise came later and prices began to go up all along the line they could not take any more.

There is no restriction on cement that I buy for immediate delivery. I can get just as much cement as I want for immediate delivery up to the limit of my credit. I identify the letters handed me which I wrote to the Hercules Company or received from them during the time I was a salesman.

Offered in evidence Defendants' Exhibits D-38 to D-50, both inclusive. Printed in Exhibit Book, p. —.

Mr. E. B. Goode, Jr., was the sales manager of the Hercules Company. The Universal was one of the cement mills.

It is agreed that the Peake Committee was a committee appointed by the Department of Commerce that took up the matter of reducing prices to hasten recovery after the war, not only with the cement industry but with other industries everywhere.

Ed mentioned in some of these letters is Mr. Goode. Herb. was a former salesman of the Lehigh Company. The Glóbe Plaster

Company was a dealer in Buffalo. When I was salesman I always kept Mr. Goode posted as to the market. Since I have been a dealer, if I get a quotation showing a change in price from one company, I call up one of the cement salesmen who represents the companies I deal with and let him know about it. Whenever a price change [fol. 237] is made by one company, it is circulated very rapidly among the salesmen of the different companies, who keep on watch for it all the time.

The Universal rate to Buffalo was lower than the Lehigh Valley rate. Four cents I think it was, but I am not sure.

Redirect examination by Mr. Fowler:

If one company reduced its price the others would have to follow or they would not get any business. If one company raised its price it would not help the others to get business if they followed the raise.

There is a Universal mill base and a Lehigh Valley mill base. They are not always exactly the same. There might be, say, \$1.25 Universal mill base and \$1.30 Lehigh Valley mill base. The freight rate is a little different. One is near Pittsburgh and the Lehigh Valley is near Philadelphia. They are not always the same. If the Universal mill base plus their freight rate to Buffalo was lower than the Lehigh Valley mill base plus the Lehigh Valley freight rate to Buffalo, you would have to meet that lowest competition. That is, if Universal would get into Buffalo at \$2.40 and it was \$2.44 from the Lehigh Valley, you would have to sell cement in Buffalo at \$2.40.

Recross-examination by Mr. Stimson:

Universal is a very large mill, a very large company, which in 1919 and 1920 had the lowest freight rate to Buffalo.

[fol. 238] HARRY W. GILBERT, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I have been engaged in the builders' supplies business in Germantown, Pennsylvania, for twenty years, and have been handling cement during that period. I now handle Lehigh and Bath. I have handled eight or ten different brands in the last six or eight years, Nazareth, Edison, Pennsylvania, Vulcanite, Universal and Atlas. I have a wholesale and retail business and handle specific job contracts. For three years I have been handling principally Lehigh and Bath. There has not been any variation in the prices that those two companies have offered me during the three years. The price was usually the same when I was handling the other brands of cement. There was one time when some of them offered it cheaper than the others. I think it was about 1915. I was then offered cement at different prices. Since that time the quotations have all

been the same. The discounts have been 10 cents a barrel, 10 days. There was no variance in that respect between the companies. The credit allowance for returned bags had been the same. I was allowed fifteen days to accept quotations by all of them. It does not make any difference to me or my patrons from which company I buy so far as price is concerned. I have never purchased in less quantity than carload lots. There is no difference so far as terms of payment and prices are concerned in the specific job contracts of the several companies.

[fol. 239] Cross-examination by Mr. Stimson:

I did not mean that prices did not go up and down at different times. I meant that at the same time they were uniform. I am sure about that. I have bought from Bath for several years. The paper I am shown is the instruction as to price from the Bath Company, dated December 15, 1919. On December 15, they ordered a change of price in cement of 25 cents a barrel. None of the other companies had a change at that time that I know of. Lehigh didn't, anyhow, and I was representing Lehigh. Immediately after that came out they were not uniform. I was mistaken so far as my answer about those two figures on that date were concerned.

Paper referred to offered in evidence, marked Defendants' Exhibit D-51, printed in Exhibit Book, p. —.

I am shown a letter of general instructions from the Bath Company, dated December 20, 1919, reducing its prices. With my memory refreshed, Bath advanced its price on the 15th and came down again on the 20th of December, 1919, without any other companies' prices moving.

Instructions of December 20, 1919 offered in evidence, Defendants' Exhibit D-52, printed in Exhibit Book, p. —.

[fol. 240] The paper dated March 2, 1920, on letter paper of the Bath Company, does not refresh my recollection about another change in its price about that date. I do not remember what they were quoting at that time. I was handling this cement. I can't recollect what the prices were. I did not refresh my memory with regard to prices at that particular date. I was mistaken in saying that the prices of Lehigh and Bath were uniform at that particular date, in December, 1919. I don't recall what the prices were that winter that Bath was charging.

Paper dated March 2nd, 1920, offered in evidence under stipulation. Defendants' Exhibit D-53 printed in Exhibit Book, p. —.

The Lehigh base governed my territory. I was nearest to that. I never heard of a Universal base. Mr. Dutton was second vice-president of the Bath Company in charge of sales.

The letter dated July 15, 1920 refreshes my recollection as to the price charged by Bath that summer.

Offered in evidence Defendants' Exhibit D-54, printed in Exhibit Book, p. —.

In reference to credits for bags, my recollection is that they all changed at the same time.

Letter dated April 26, 1920, from W. G. Dutton, Second Vice-President Bath Portland Cement Company, to Mr. Franks, First [fol. 241] Vice-President of that company, offered in evidence. Defendants' Exhibit D-55 printed in Exhibit Book, p. —.

I have known cases of specific job contracts where a job would require only a thousand barrels and the buyer has estimated that it might take twelve hundred and put that into the contract. That is very common, that the buyer always wants to be sure that he gets enough. He estimates liberally regularly. The situation there is that he does not have to take the balance and it would be thrown back on the company's hands.

After August 12, 1920, and during that summer, there was a dollar per barrel difference between the Lehigh price and the Bath price.

Redirect examination by Mr. Fowler:

There is not much cement used in the winter, from December 15 to the end of the year, if the weather is bad enough to stop work.

[fol. 242] JOSEPH H. CLARK, called as a witness on behalf of the government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I have been in the builders' supplies business in Philadelphia for about six years. I handle from ten to twelve thousand barrels of cement a year, Lehigh and Atlas principally. I handled Vulcanite for the first couple of years.

There has been uniformity of price at the same time between the companies. Quotations made by the Atlas and the Lehigh Companies at the same time were the same. The Atlas Company allowed 10 cents a barrel for cash within ten days; the Lehigh the same.

As to the allowance for bags returned, the companies at different times allowed different prices, just according to what the charge had been. There was no difference between the two companies as to credits for returned bags at any particular time. The time allowed for accepting the quotation was the same with the two companies. The specific job contract forms as to prices and terms of payment were the same. When I handled Vulcanite its prices did not vary from the others, nor its discounts, nor allowances for returned bags. I am allowed 10 cents a barrel differential on specific job contracts, and that is the same with all the companies I represented.

[fol. 243] Cross-examination by Mr. Stimson:

There is no practical difference in the quality of the cements I sold. They are regarded in the market as uniform. None of my customers would give a higher price for one than the other. I would take the cheapest I could get in every case.

As to cash discounts, I have found that the discount was similar as between the companies I mentioned, and I have found a like similarity in the cash discount in the other articles that I handle in the trade. The discounts which one seller allows is generally similar to those which another allows.

As to bags, there have been times when I would be allowed 10 cents for a returned bag and other times when I have been allowed 25 cents. I am always charged with the price of the bag in the beginning and then if I return bags, I get the same price that I am charged with.

It is agreed that it is, and always has been, the custom in the cement business that on sales on specific job contracts, the manufacturer is held to the price named in the contract if the market price advances, while the purchaser gets the benefit of any reduction in the market price.

I have known of cases where specific job contracts had been duplicated, so that there were two contracts outstanding at the same [fol. 244] time for the same job. I have also known of cases where the amount of cement which was estimated to cover the job would be more than the job required. That is very commonly done.

Letter dated August 10, 1920, from W. G. Dutton, of the Bath Portland Cement Company, to E. P. Comer, offered in evidence. Government's Exhibit No. 193, printed in Exhibit Book, p. —.

Price instructions issued by Bath Portland Cement Company August 12, 1920, dictated by W. G. Dutton, offered in evidence.

Government's Exhibit No. 194, printed in Exhibit Book, p. —.

Letter September 30, 1920, from Bath Portland Cement Company to E. P. Comer, offered in evidence. Government's Exhibit No. 195, printed in Exhibit Book, p. —.

Letter October 2, 1920, from W. G. Dutton, of Bath Portland Cement Company, to C. S. Nellis, offered in evidence. Government's Exhibit No. 196, printed in Exhibit Book, p. —.

[fol. 245] Letter October 2, 1920, from W. G. Dutton, of Bath Portland Cement Company, to E. P. Comer, offered in evidence. Government's Exhibit No. 197, printed in Exhibit Book, p. —.

Circular letter of price instructions sent out by W. G. Dutton, of Bath Portland Cement Company, December 4, 1920, offered in evidence. Government's Exhibit No. 198, printed in Exhibit Book, p. —.

[fol. 246] JOHN H. KELTER, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I have been engaged in selling builders' supplies in Philadelphia, Pa., for twenty-five years, handling cement throughout that period.

At the present time, I am selling Penn-Allen, Bath, Lehigh and Coplay. I have been selling for those four companies for fifteen years, at least. During that time I have also sold Atlas, Alpha and some Phoenix.

We get a notice from one company or some company of a change in price, and three or four days afterwards the rest of the companies send us a notice meeting that price, whether it is a rise or a fall in the market. From that time up to another change there is no difference in their prices.

In regard to cash discounts, there is no difference, 10 cents a barrel in ten days from date of shipment. With reference to acceptance of quotations, their custom is fifteen days to accept, without we request longer.

Other companies occasionally send quotations to me. Other companies send their salesmen to me.

There is no difference in the amount that each will allow for returned bags. There is a change from time to time in the price. All bags are marked by the different companies they belong to with the returned price, 10, 15 or 25 on each bag, and the company's brand on the bag.

[fol. 247] Cross-examination by Mr. Stimson:

The standard specification test is the tests which architects ask for or contractors ask for when they ask me to buy cement for them. I have found that all these six cements I handle stand alike so far as quality is concerned. If I were able to get any one of them cheaper than the others, I certainly would take the cheapest one. It would make no difference at all what brand it was.

In the last fifteen or twenty years prices have been fluctuating every three or four months. My observation has been that one or two companies would make a change, then in a little while, two or three days, the others would all follow. Of course, it is not always the same company that makes the change first. But one company will decide to change its price and notify the trade of it, and then in three or four days the others will all come to it.

As to cash discounts, in my business with other materials, I have also found that there are uniform cash discounts for the other materials that I handle. There is nothing unusual in finding the same cash discount used by different manufacturers. They are always the same, no matter what materials they are. That applies to brick and sand and all the other things I sell.

Salesmen come into my office about once a month and try to sell me cement. They want an order. If they can go back with an order they are happy for it. They try to sell all the cement that I

[fol. 248] will take. They try to get me to take their cement rather than the other fellow's cement. That has been going on through all the years I have been a dealer. There has been nothing different at all. These salesmen ask me to keep them posted as to the changes of price which any other salesman of another company may make; and I do it. I remember a case, for instance, where Penn-Allen was involved. I received a notice from another company of a decrease in price, and I called up Mr. Bretherton of the Penn-Allen Company and asked him if he would meet the price, and he said, "I will let you hear from me in two or three hours." Then I got a notice from him meeting the price.

As to other times, I called Mr. Ford up of the Lehigh Company, the Philadelphia sales manager, and asked him if he had heard anything about a decrease in price, after we received a notice possibly from one of the other companies. He would wait until he got word from the main office as to what they were going to do, whether they were going to meet the price or whether we would buy from the fellow that quoted the lower price. Invariably they would meet the price.

It has been my experience that whenever a change of price has been made, the news of it flies around awful fast. Just as quick as one company changes, all the dealers that get notice of it tell the other companies. You can't answer the telephone fast enough for them. Just as soon as any change occurs, the news of that change flies all over the trade just as fast as it can be telephoned.

[fol. 249] Specific job contracts provide that cement is to be delivered in the future six or eight months or a year, just as you ask them, according to the size of the job. I have known cases where those contracts have been extended after they have expired, even where the price of cement has gone up in the meanwhile. I know of such a case in 1920, which was the year when prices all went up. I had a contract with a man by the name of Mark Haller, building on Oregon Avenue. My contract called for the Penn-Allen Company's cement for 2,500 barrels and also with the Coplay Cement Company for a thousand barrels on the same job, and the market went up and both companies shipped on the low market to that job, after he had used the quantity of cement that was really coming to him, and they gave him an extension of about 10 to 15 per cent more barrels. The market was \$2.73 at the time of the contract, and my contract with him was \$2.82, in carload lots. That contract had expired and the market was up to \$4.05, and we gave him about four cars additional over and above his contract at the low market, after the market had gone up.

In the summer of 1920, the cement companies were doing their best to deliver cement. The Lehigh Company shipped me in about 3,000 barrels of cement by truck, when they couldn't get railroad cars. I hauled cement from the mill of the Penn-Allen Company in my own trucks. It took about fourteen hours to do it from the mills to Philadelphia.

As to bags, the bags are always redeemed at the same price I am

charged for them when they sell me the cement, whether it is 10 cents, 25 cents, or 15 cents.

[fol. 250] I remember receiving the letters shown me from the Edison Company and getting the signs mentioned in it.

Offered in evidence Defendants' Exhibit D-56, printed in Exhibit Book, p. —.

Redirect examination by Mr. Fowler:

The other companies, as well as the Edison, helped me to advertise their cement.

[fol. 251] ALFRED L. LYTH, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I have been engaged in the business of selling building supplies in Buffalo, New York, for eighteen to twenty years. My company, A. L. Lyth & Sons Company, has been in existence over sixty years. It was established by my grandfather. We handle on an average fifty to sixty thousand barrels of cement in a year. I have been handling Lehigh for seventeen years and Giant, Knickerbocker and Hercules for three to four years.

While I have been handling these brands, the prices quoted me by all the companies at the same time were uniform. Salesmen of other companies come to see me from time to time, trying to sell me cement. There was no difference in the price at which they offered to sell me cement and the prices at which I was buying from these other companies. That has been the condition, I should say, for ten years back. In 1913, 1914, 1915, along in there, cement was considerably lower. The prices in or about the same time were all about the same. That has been so for ten years.

There has not been any difference in the requirements of the companies as to cash discounts or in their allowances for returned lags, or with reference to the time within which an acceptance is required. The times of acceptance are usually fifteen days. They will [fol. 252] extend on request. Taken at the same time, the terms and prices offered to me at which cement has been sold to me have been the same. I have one exception in mind. During 1920, during the scarcity of cement, I had contracts amounting to about twenty thousand barrels with the Knickerbocker Cement Company which they did not fulfill on account of, as they claimed, coal shortage and the bad car situation. I fulfilled the contracts with any cement I could get hold of at any price and took the matter up with the Knickerbocker Cement Company and made an agreement with them to accept delivery on that cement at a future time if they would guarantee me the price which was about 48 cents more than the original contract price but about 50 cents less than the market price at the time they actually shipped the cement to me. In other words we split the difference.

I had an experience with checkers. The checkers often came in to look over our specific contracts and my experience with them was very short because I dismissed them without giving them any information. They would go out and call on the contractor and often check up contracts with the public works with the Department of Buildings. My refusal to give them any information was based on the fact that I considered it was nobody's business.

Cross-examination by Mr. Stimson:

In regard to the fifteen days' limitation on acceptance of quotations the paper shown me is just the same form the Knickerbocker Company used in quoting me. I do not find in it anything about it being limited to acceptance within fifteen days.

Offered in evidence Defendants' Exhibit D-57. Printed in Exhibit Book, p. —.

In regard to cash discounts being uniform, the discount which is granted by the different manufacturers or sellers is uniform in the cases of a great many other materials I handle besides cement. There is nothing exceptional about cement in that respect.

Since the standard test the quality of cement of all the different companies has been practically uniform. Purchasers regard it as substantially equal so far as the price they pay is concerned and a difference of 5 cents will make the difference between a purchase or non-purchase of any of the brands. If I could get a different price from any one of my companies, they naturally would get the heavy end of the business. My customers would practically invariably take the cheaper.

Prices of cement have been practically uniform for about ten years. At the period when cement went down very low, they all went down uniformly practically, the same way as they have acted since. According to my experience, if any one of those brands had stayed up I don't think they would have sold any cement.

All of these companies I have mentioned maintain salesmen who visit my office pretty actively, trying to get me to take their particular brand. They carry on advertising through me. As between these [fol. 254] different salesmen, they compete against each other. Each tries to get the other's business. They try to get me to give it to them.

I remember the Pennsylvania Company carrying on a bill-board advertisement campaign in 1917, I think. They placed large bill-boards around throughout the city and approaches to the city on the main arteries, advertising their cement and advertising me as the dealer. I have seen the same thing done by other companies. That has been going on, the same activity, right straight along, all this time that I have been in the cement business. This letter from the Knickerbocker Company, dated May 3, 1921, to my firm, offers me a contract for future delivery of a thousand barrels, specifying that it is for the manufacture of concrete blocks, but not for any particular job or building, just to be used in the manufacture of concrete blocks in general.

Offered in evidence Defendants' Exhibit D-58. Printed in Exhibit Book, p. —.

I represented the Hercules Company. I can't state positively, but I believe that when they first came into the market they sold lower than the others until they got themselves established.

In 1920 there was quite an abnormal situation. The telegram shown me is one that my firm got at that time from the Giant Company, dated May 10, 1920.

Offered in evidence Defendants' Exhibit D-59. Printed in Exhibit Book, p. —.

[fol. 255] I remember that in the Spring of 1919, right after the war had stopped, there was a reduction in the price of cement.

Memorandum from Alpha Company in regard to reduction offered in evidence, Defendants' Exhibit D-60 and D-61. Printed in Exhibit Book, p. —.

I remember that during the war the United States Government asked for a pledge that manufacturers would not permit cement to be used for anything except essential industries. I remember the circular containing that pledge.

Offered in evidence Defendants' Exhibit D-62. Printed in Exhibit Book, p. —.

In regard to a visit of the checkers, I remember a contract with the Hercules Company that this gentleman came to investigate. I don't know by what number of barrels that contract was padded. I don't know whether that particular contract was padded or not. It has gone out of my memory just now. One of the Hercules contracts they came to investigate was not padded quite seriously. One of the other contracts was. What these gentlemen usually called on me to find out was whether there wasn't more being asked for—whether the contract was being kept. I thought that was none of their business.

[fol. 256] Redirect examination by Mr. Fowler:

In regard to Defendants' Exhibit D-58, I was not a manufacturer of blocks. That contract was taken for a particular manufacturer there in Buffalo. He wanted the cement to manufacture blocks.

Typewritten paper on letterhead of the Knickerbocker Portland Cement Company, dated December 31, 1919, and addressed to Manchester & Hudson Company, Providence, R. I., offered in evidence Government's Exhibit No. 199. Printed in Exhibit Book, p. —.

Two typewritten papers on letterhead of Knickerbocker Portland Cement Company, dated December 10, 1914 and April 13, 1920, and addressed to Albany Builders' Supply Company, offered in evidence, Defendants' Exhibit D-63 and D-64. Printed in Exhibit Book, p. —.

Letter from Mr. Cover, president of the Security Company, to P. F.

Affleck, dated July 5, 1918, received in evidence as against Mr. Cover and not as against the other defendants, Government's Exhibit No. 200. Printed in Exhibit Book, p. —.

It is agreed that the association referred to in Exhibit No. 200 is [fol. 257] the Portland Cement Association, the so-called National Association and not the Cement Manufacturers Protective Association.

[fol. 258] WILLIAM M. KINNEY, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I live in Chicago, Ill. Since December 1, 1918, I have been general manager and secretary of the Portland Cement Association, sometimes called the National Association. In response to a subpoena by the Government I have the records of that Association present. The Government attorneys had them for about four or five months. They were returned last November.

The pamphlet designated "Portland Cement Association Directory of Members, Officers, Board of Directors and Standing Committees for 1921, issued March 1921" was gotten out by our Association.

Offered in evidence Government's Exhibit No. 201, not printed by consent.

That shows a correct list of the members of the Association as of March, 1921.

This list, dated May, 1915, of the Association of American Portland Cement Manufacturers is, I presume, correct.

Offered in evidence Government's Exhibit No. 202, not printed by consent.

This is a roll of members as of March 1, 1921.

Offered in evidence Government's Exhibit No. 203, not printed by consent.

[fol. 259] I have examined the records of the National Association. The elections, resignations and re-elections of each of the defendants have been as follows:

Atlas Portland Cement Company, charter member, September 11, 1902; resigned September 13, 1909; elected December 13, 1910.

Allentown Portland Cement Company, elected November 1, 1909.

Alpha Portland Cement Company, charter member, September 11, 1902; resigned December 13, 1909; elected December 12, 1912.

Bath Portland Cement Company, elected June, 1906; resigned May 1, 1916; elected May 23rd, 1918. That is the reference you asked about the other day.

Coplay Cement Manufacturing Company, charter member, Sep-

tember 11, 1902; resigned December 11, 1911; elected December 11, 1912; resigned December 14, 1915; elected January 1, 1918.

Dexter Portland Cement Company, charter member, September 11, 1902.

Edison Portland Cement Company, the same.

Giant Portland Cement Company, elected May 1, 1913.

[fol. 260] Glens Falls Portland Cement Company, charter member, September 11, 1902.

Hercules Cement Corporation, elected April 1, 1919.

Knickerbocker Portland Cement Company, elected May 1, 1916.

Lawrence Cement Company, elected September 11, 1902; resigned December 11, 1911.

Lehigh Portland Cement Company, charter member, September 11, 1902; resigned December 13, 1909; elected December 12, 1912.

Nazareth Cement Company, September 11, 1902.

Penn-Allen Cement Company, elected December 11, 1911.

Pennsylvania Cement Company, elected December 8, 1903.

Phoenix Portland Cement Company, September 11, 1902.

Security Cement and Lime Company, December 1, 1910.

Vulcanite Portland Cement Company, September 11, 1902.

Where it is said that one has been elected upon a certain date, it means that they have been members ever since, unless designated to the contrary.

The report shown me was issued by the Portland Cement Association and intended to show the entire production capacity in the United States, both of companies members of that Association and those who are not members. It was made up from information supplied by the manufacturers, except in some cases which were estimated.

Report put in evidence. Government's Exhibit No. 242, printed in Exhibit Book, p. —.

[fol. 261] At present, about the only reports that are being made to the Association are in connection with our accident prevention and insurance work, and in connection with the work of our conservation bureau. The members did report the amount of production and shipments until shortly after the decision of the Supreme Court in the Hardwood Lumber case, January, 1922.

The book "Trade Practices in the Cement Industry" is a report made in 1919 of a report of the Committee on Trade Practices of the Portland Cement Association. The earlier editions purporting to be printed in September, 1918, in 1915 and in 1916, were before my management, but I think you can take the dates from the books.

The pamphlet published in January, 1919, put in evidence as Government's Exhibit No. 243. Printed in Exhibit Book, p. —.

The pamphlet published in 1916 put in evidence as Government's Exhibit No. 244. Printed in Exhibit Book, p. —.

The pamphlet published in 1915 put in evidence as Government's Exhibit No. 245. Printed in Exhibit Book, p. —.

[fol. 262] Letter dated December 24, 1914, from Percy H. Wilson, Statistician of Association of American Portland Cement Manufacturers, to Security Cement & Lime Company, put in evidence as against that company. Government's Exhibit No. 246, printed in Exhibit Book, p. —.

Reply of Security Company thereto, dated January 2, 1915, put in evidence. Government's Exhibit No. 247, printed in Exhibit Book, p. —.

Letter dated June 24, 1916, from J. P. Beck, Statistician of Portland Cement Association, to Security Company, put in evidence. Government's Exhibit No. 248, printed in Exhibit Book, p. —.

Reply of Security Company thereto, dated July 3, 1916, put in evidence. Government's Exhibit No. 249, printed in Exhibit Book, p. —.

Letter dated December 17, 1917, from Secretary of Cement Manufacturers Protective Association to Government agent, Mr. De Woody, and accompanying enclosure put in evidence. Government's Exhibit No. 250, and Government's Exhibit No. 251, printed in Exhibit Book, p. —.

[fol. 263] Telegram from Mr. De Woody to Secretary, dated December 17, 1917, put in evidence. Government's Exhibit No. 252, printed in Exhibit Book, p. —.

Cross-examination by Mr. Dorr:

I am a graduate engineer. As General Manager of the Portland Cement Association, my principal duties have been the direction of the promotional activities of the Association, that is, bringing to the attention of people in different sections of the country what cement can be used for and how to use it. We have about 320 employees, with branch offices in twenty-three cities and a membership including companies in South America, Mexico and Canada. The principal activity is the promotion and inspection of concrete roads. We advise highway officials, engineers, city engineers and others, as to how best to construct concrete roads, so that having obtained a satisfactory road they will more extensively use that type. The basis of all the work of the Association is the best information obtainable. We maintain a very extensive laboratory in Chicago, where we attempt to develop the best uses of cement, try to find out if the work can be improved by changes in the specifications or what not. We have a farm and cement products bureau. They devote themselves to the development of the uses of cement and concrete on the farm, that is, for silos and feed floors and hog wallows and dipping vats and all that sort of thing. Then we have a structural bureau that works with the architects and engineers in the development of new and better uses for cement. We have a very extensive advertising department, which spends usually \$200,000 a year, and sometimes more, in that field. We have accident prevention department. By reason of the work heretofore done, the machinery in cement plants is well guarded to avoid accidents, and the principal work now is educating em-

ployees to protect themselves. We have a conservation bureau engaged in studying ways and means to avoid waste in the manufacture of Portland cement, for instance, waste of heat in the burning, waste of dust, anything to improve the manufacture and make it less costly. We did have a uniform cost accounting bureau, but that work is not still carried on. We have about 200 engineers engaged in field work.

As to the laboratory, in concrete cement is the binding material which holds the other materials together. A manufacturer can make his cement just as perfectly as possible, but if it is misused, then the results are not satisfactory and he has a displeased customer; and our idea is to find out the best way to use cement in making concrete and then pass that information on to the public. The laboratory has devoted a great deal of time and made extensive technical researches. For instance, we have shown that reducing the amount of water 20 per cent will increase the strength of the resulting concrete 30 per cent, and reducing the amount of water 30 per cent will increase the strength about 50 per cent. That [fol. 265] particular series of tests was put in a leaflet and distributed to possibly 200,000 people in the United States.

Leaflet put in evidence. Defendants' Exhibit D-89, not printed by consent.

This is another bulletin giving the results of laboratory work to develop the effect of curing on the wear and strength of concrete.

Put in evidence Defendants' Exhibit D-90, not printed by consent.

This is another pamphlet embodying researches into the effect of fineness of cement. Cement is already ground so fine that 78 per cent will pass through a sieve having 40,000 holes to the square inch, a sieve that will hold water. This study was made to determine whether the value of increasing that fineness would equal the increased cost.

Put in evidence Defendants' Exhibit D-91, not printed by consent.

This contains a study on the elasticity of concrete, a highly technical study made to assist those who are designing concrete structures, reinforced buildings, bridges, and so forth. I would hesitate to attempt to explain it so that it would be clear to anyone but an engineer.

Put in evidence Defendants' Exhibit D-92, not printed by consent.

[fol. 266] This study is on the effect of storage on cement. It was made to determine just how long cement can be kept without deterioration.

Put in evidence Defendants' Exhibit D-93, not printed by consent.

This is another study of the wearing resistance of concrete under various conditions. It is directed towards determining the various conditions which make a concrete that will wear the longest.

Put in evidence Defendants' Exhibit D-94, not printed by consent.

This is a study of the effect of vibration and pressure on fresh concrete, intended primarily to help those who are manufacturing concrete blocks, concrete piles, sewer piping, any of the products which are vibrated in order to get the highest strength.

Put in evidence Defendants' Exhibit D-95, not printed by consent.

Our Association has made expenditures every year in this technical work. For instance, since January 1st, 1918, we have devoted to laboratory research \$218,819.65. The structural bureau of our Association prepared the bulletin "Railway Uses of Concrete," which was then printed and distributed by the American Railway Engineering Association.

Put in evidence Defendants' Exhibit D-96, not printed by consent.

[fol. 267] This pamphlet "Concrete Chimneys" describes the use to which cement is now being put quite extensively. Chimneys up to five hundred feet in height are being built from that material.

Put in evidence Defendants' Exhibit D-98, not printed by consent.

This pamphlet "Recommended Practice for Concrete Bridge Construction" is technical. The other pamphlet "Concrete Highways and Bridges" is promotional. One tries to make the reader want to use concrete and the other tells him how to do it, if he wants to.

Put in evidence Defendants' Exhibits D-99 and D-100, not printed by consent.

These other pamphlets "Concrete Bins and Pits for Coal Storage," "Concrete Tanks for Industrial Purposes," "Concrete Tanks for Fuel Oil Storage," and "Concrete Swimming and Wading Pools," are other illustrations of the work of the Association.

Put in evidence Defendants' Exhibits D-101 to D-104, inclusive; not printed by consent.

Other work of the Association is illustrated by the pamphlet "Remarkable Test of Concrete Building in the Salem Fire," the pamphlet "Concrete Schoolhouses," the pamphlet "Concrete for Industrial Housing," the pamphlet "Concrete Linings for Irrigation Canals," the pamphlet "Concrete Linings for Mine Shafts."

Put in evidence Defendants' Exhibits D-105 to D-109, inclusive; not printed by consent.

As to the extent to which these pamphlets have been distributed, we circulated two and one-half million books last year.

The Association has also similarly studied reinforced concrete. The pamphlet "Recommended Specifications for Reinforced Concrete Design" illustrates its work.

Put in evidence Defendants' Exhibit D-110, not printed by consent.

[fol. 269] The use of concrete for floors received considerable abuse until we made studies in the laboratory and determined that curing these floors would materially improve them. Now the use is increasing very rapidly. The attempt to introduce concrete or cement into a new use without sufficient technical study, and the resulting failure, is a very serious set back to the industry. If an architect has a failure of a floor for example, it is his natural tendency not to use concrete floors again. He will use some other material. So a part of the work of the Association is to avoid that kind of set back by educating the engineers and architects as to how the material should be used for each purpose.

The development of the use of concrete on the farm has been a very important activity of the Association. The use on the farm has become very extensive. For instance, on the dairy farm it is used for floors, feed stalls, silos, etc. The pamphlet "Concrete on the Dairy Farm" illustrates this work.

Put in evidence Defendant's Exhibit D-111. Not printed by consent.

The pamphlets "Concrete Trough, Tanks and Cisterns," "Cement Silos" and "Mooseheart, a Concrete Community," illustrate this work.

Put in evidence Defendants' Exhibits D-112 to D-115, inclusive. Not printed by consent.

[fol. 270] Possibly the keenest competition we have is in piping and tile for drainage and sewerage. Clay sewer piping, clay tile are very strongly entrenched in that field, and it is quite difficult to supplant them. In many localities the use of a concrete tile means a great saving to the farmer, since clay tile plants are not always located in the particular territory where the tile is needed, and by making concrete tile in that field you would have a considerable saving on freight. The same applies to concrete sewer pipe. The pamphlet "Concrete Pipe Sewers" illustrates the Association's work in that field.

Put in evidence Defendants' Exhibit D-116. Not printed by consent.

In connection with the work on the farm the Association has in the past and to some extent now gives lectures at farmers' institutes, but our principal work now is in educating the county agents who are employees partly of the State, partly of the Federal government, and partly of a local farmers' organization, who advise farmers. We work in close cooperation with these officials, frequently sending our men to lecture at the university short courses where they are trained and continually passing on to them helpful information. For instance, in New York State, we have a truck carrying equipment to do concrete work, and this truck passes from town to town, and advance dates are made and then lectures are given [fol. 271] to the farmers in that particular community through the

cooperation of the county agents. The pamphlet "Concrete Tile for Land Drainage" is another illustration of our work with farmers.

Put in evidence Defendants' Exhibit D-117. Not printed by consent.

Since January 1, 1918, we have spent in the farm bureau \$354,365.41.

The Association has also used advertising space extensively. Last year our advertising had two hundred and fifty million insertions. That is, if it had all been in one paper it would have appeared two hundred and fifty million times. If a single manufacturer advertises in a magazine which circulates generally, a large part of the benefit would go to parts of the country where he could not sell his product. We do not advertise any particular brand of cement. The manufacturers in various parts of the country all get the benefit of our single advertisement of general circulation. We have expended for such advertising in the last four years \$544,425.14.

The state highway bureau of the Association has become more and more important of late years. We make studies of the best uses of concrete for road purposes and try to work in cooperation with engineers so that if they have worked out something which is an advantage, we pass it on to the public. The pamphlet entitled "Concrete Streets for Your Town," "That Alley of Yours," "Resurfacing an Oiled Pavement with Concrete," "Your Streets," "Concrete Streets," "Maintenance of Concrete Pavements," "Facts About Concrete Roads," are illustrations of the publications of the [fol. 272] Association in that field.

Put in evidence Defendants' Exhibits D-118 to D-124, inclusive. Not printed by consent.

We have expended on this highway bureau during the last four years \$154,459.09.

The accident prevention work of the Association several years ago had to do principally with educating the manufacturer. Of recent years the work has gone to the education of the employee. The last year or so we have been conducting what have been called "No accident months." A plant would start out at the beginning of a particular month and all the employees would be encouraged to do everything humanly possible to avoid accident at that particular plant during that particular month, and such campaigns have been very successful. In fact, one plant has gone now for four months without a single accident. There is a great deal of dangerous machinery in a cement plant, conveyors which an employee can step into if not properly covered, gears, great crushers, red hot clinker, and many hazards. This book, "Bureau of Accident Prevention and Insurance" is a book of the Association which the head of the bureau uses in traveling around to the various plants to show the superintendents and foremen means of guarding machinery and the various slogans and signs, and so forth, which they can use to call the attention of the workmen to proper safeguards. We get

out also every two months what is known as an accident prevention bulletin that goes to foremen, superintendents, safety committees, [fol. 273] members and others, illustrating means of avoiding accidents and giving statistics with regard to accidents.

Put in evidence Defendants' Exhibit D-125. Not printed by consent.

The work of the conservation bureau is intended primarily to eliminate waste in the process of manufacture. The first problem was one of conserving fuel. On an average, about 200 pounds of coal is required to make a barrel, 376 pounds of cement. Every increase of a dollar a ton in the price of coal means 10 cents per barrel increase in the cost of cement. The cement industry is the fourth largest user of coal in the United States, and the largest user of pulverized coal. Our conservation bureau made a considerable study on the utilization of waste heat by means of waste heat boilers and fuel economizers. By processes now being developed and already installed in quite a few plants, the heat that would normally pass up the stack is taken and fed through boilers and fuel economizers and used to provide power to run the plant. The Association has also made studies of various types of grinding machinery, and passed on the information in the shape of charts and reports. It has also studied dust prevention, sending an engineer to Europe to make a study of the collection of dust in Germany and Belgium and various other countries.

The district offices of the Association are supervised by district engineers, who have under them anywhere from one or two to a dozen or more field men who are graduate engineers. They go to the city engineer, or the county engineer, or the county commissioner, or the street and alley committee of the city council, or [fol. 274] some civic body like the Chamber of Commerce, and try to interest them and the community in the use of concrete for a road or a street or an alley, and having so interested them that the public officials call for a bid on the concrete type of pavement along with other types, it is then their work to get a contractor interested so that he will bid on the concrete type. It is sometimes necessary to assist the contractor in the location of sand and gravel deposits or stone quarries. Naturally in that work they come in competition with representatives of other types of pavement. Usually they will meet, on a road or street job, four or five or even more representatives of, say, the asphalt type of pavement. The competition is very keen. We meet the brick pavement, the old type of macadam pavement, various types of bituminous pavement, such as bituminous macadam, bitulithic, amiesite, warranite, and all the other items. The field men do not represent any company. They represent the Association and only bring the proposition up to the letting of the award for concrete. Then it is up to the individual companies to go out and get the business if they want it. The Association's men make no bids themselves. They would be fired if they did. They are only pushing cement in competition with these other materials.

The Asphalt Association, representing the various asphalt companies as a group is a competitor. The National Paving Brick Manufacturers Association is another.

The field men, after they have secured a job for concrete and the job has been awarded, offer their services to the officials to see that it [fol. 275] is properly built so that the public will get its money's worth. Of course, these field men carry on a great deal of other work, that is, they assist in connection with laying standardizers, sidewalks, farm work, and everything under the sun.

During a considerable part of the period while I have been manager of the Association, the cement industry has had to face decrease occasioned by the war and the general reduction of construction activities, which has made it all the more necessary to compete with other materials. Cement has not only held its own, but done quite a little better. I have prepared a chart from the various bulletins of the Department of the Interior, showing the percentage of increase or decrease in the various materials since 1916.

Put in evidence Defendants' Exhibit D-129. Printed in Exhibit Book, p. —.

The chart shows volume of shipment in percentage columns, calling 1916 one hundred per cent. Thus in 1917, the industry as a whole showed a lower percentage of shipments as compared with 1916 than the Lehigh district. In 1918 the same is true. In 1919 it was the same. In 1920 the whole industry had a little better than a hundred per cent of its 1916 shipments, but the Lehigh district was a little high. In 1920 the Lehigh district suffered more than other sections from the great car shortage. But the difference is not large in any case. The Lehigh district followed the country as a whole.

The next section of the chart shows the shipment for the entire country compared with shipments of common brick and indurated [fol. 276] cates how the work of the Portland Cement Association increased the shipments of cement during the years following the war to a much greater extent than the efforts of the brick manufacturers. The same holds true to a less degree with sand and gravel. Of course, when you promote the use of cement, you promote the use of sand, gravel and crushed stone. Coming over to cement and lime, the lime industry fell off in 1917 to a greater extent than cement, and in 1920 cement was well above its 1916 shipments, while the lime industry was below. Roofing slate in 1920 has fallen off to only about 44% of its 1916 shipments. Face brick in 1920 was 75% of its 1916 shipments.

The Association has advocated the use of bulk cement, that is, cement to be shipped in box cars without being put in any containers, and in 1920 we sent out a letter to member companies with the Association's booklet, "Bulk Cement," suggesting that in view of the difficulty in obtaining enough sacks and labor, it was good time to promote bulk cement shipments.

Put in evidence Defendants' Exhibit D-130. Printed in Exhibit Book, p. —.

Letter sent to members containing statement by Interstate Commerce Commission concerning shortage put in evidence, Defendants' Exhibit D-130-a. Printed in Exhibit Book, p. —.

Circular letter to member companies from Association's representative in Washington, June 22, 1920, put in evidence, Defendants' Exhibit D-131. Printed in Exhibit Book, p. —.

[fol. 277] Memorandum filed by Portland Cement Association with Interstate Commerce Commission in 1920, put in evidence Defendants' Exhibit D-132. Printed in Exhibit Book, p. —.

Service order No. 7 was modified so as to make possible the use of a few more open top cars for shipment of materials other than coal. The Association thereupon sent a circular letter to its members concerning this promise of relief from the car shortage, dated August 21, 1920.

Put in evidence Defendants' Exhibit D-133. Printed in Exhibit Book, p. —.

[fol. 278] The Association has a transportation bureau. It is not interested in any individual freight rates, but only in rates which affect the industry as a whole. Cement is heavy and the freight rate affects the distance to which it can profitably be carried and marketed. I have here some figures which are averages and were submitted to the Interstate Commerce Commission by a special traffic committee of the Association, in support of a general reduction in freight rates. The increase in freight rates from 1913 to 1921 on materials entering into the manufacture of cement and carried on railroads was: Shale 148 per cent, limestone 119 per cent, fuel oil 99 per cent, coal 83 per cent, clay 98 per cent, gypsum 82 per cent. On the finished product Portland cement, the increases in freight rates from the mill to the consumer for distances up to twenty-five miles, was 133 per cent. That was an average increase from 76 cents per ton to \$1.76 per ton, or approximately 20 cents a barrel. The figures here show the increases for the various distances, for instance, from 401 to 425 miles, the increase was about 40 cents a barrel.

This chart is prepared by taking the matter on page 9 of the "Survey of Current Business," issued by the United States Department of Commerce December 1, 1921, and arranging it in order of increases in prices. It shows how Portland cement has increased in price since 1913 almost least of all the many commodities there mentioned.

Put in evidence Defendants' Exhibit D-134, printed in Exhibit Book, p. —.

[fol. 279] This is a design of a small house for a small family, which the Association prepared and put out, the house being adapted to construction entirely from concrete. That house would cost to build about \$7,500 at the prevailing price realized in the eastern district of the United States. In 1921, the cost of the cement used in that house would be about \$216.

Put in evidence Defendants' Exhibit D-135, not printed by consent.

Redirect examination by Mr. Fowler:

The Portland Cement Association has nothing to do with the Cement Manufacturers Protective Association. I don't know anything about that Association except by hearsay. We don't get any reports from it, have no connection with it and nothing to do with it.

The income of our Association, the Portland Cement Association, last year was about \$1,750,000. The membership is at the rate of 8 mills per barrel on the production of the second preceding year. In addition, there are special dues to cover the activities of the various offices throughout the country, based on so much per barrel on the shipments into the particular States. All the cement manufacturers of the United States, except about ten, are members of our Association.

I wrote this letter giving a very short history of the National Association.

Put in evidence Government's Exhibit No. 253, printed in Exhibit Book, p. —.

[fol. 280] This paper was attached to that letter.

Put in evidence Government's Exhibit No. 254, printed in Exhibit Book, p. —.

The signature H. E. Hilts to this letter, looks like the signature of my predecessor.

Letter dated January 30, 1918, from Mr. Hilts to President of Security Company, put in evidence. Government's Exhibit No. 255, printed in Exhibit Book, p. —.

Recross-examination by Mr. Dorr:

Since I have been connected with the Association, it has never tried in any way to interfere with the advertising activities of any member. Some of the companies advertise very extensively.

By consent telegram from W. A. Holman, dated April 24, 1922, put in evidence. Defendants' Exhibit D-136, printed in Exhibit Book, p.—. It is agreed that Loomis is a sanitarium in one of the upper counties of New York State, and Saranac is in the Adirondack Mountains, in New York State.

[fol. 281] MARY K. KAVANAGH, called as a witness on behalf of the Government, being first duly sworn, testified as follows:—

Direct examination by Mr. Fowler:

I was employed by the Atlas Portland Cement Company on November 4, 1904, and remained in their employ until April 16,

0. I first went with the Atlas Company as a stenographer in the transportation department. I worked in that department for about six months. I worked next for Mr. W. E. Miner. I was Mr. Miner's secretary. He was then comptroller of the company. He was the president's right hand man. The president came very close in contact with the employees. Mr. Miner did it all. Gave instructions to the employees. I worked for Mr. Miner from 1905 up to the latter part of 1910.

Mr. J. Rogers Maxwell was president of the Atlas Company, until 1910. Mr. J. R. Morron then became president and was president when I left. When I ceased working for Mr. Miner I worked for Willis A. Holman, who became assistant to the president in the early part of 1911. I worked for Mr. Holman from 1911 to 1920. I believe I did some work for Mr. Burch. He didn't have a title until Mr. Holman left. Mr. Holman is ill with tuberculosis of the throat and Mr. Burch was made assistant to the president. It was just shortly before I left, in 1920. Mr. Holman was out [282] West off and on for about four or five years. Mr. Burch took his place in his absence. I know Mr. MacFarland. He took Mr. Holman's place. I worked for Mr. MacFarland, I think, for about two or three years steadily. He was performing the duties Mr. Holman during that time. There were two assistants to the president. Mr. MacFarland was made assistant to the president a few years after Mr. Holman was appointed. I do not believe I can remember how long ago that was. It was when Mr. Holman first began to get ill, I think. Mr. Holman has been ill for four or five years, probably longer. My office was between Mr. Morron's office and Mr. Holman's office. Mr. Morron had two private secretaries, Espage and Miss Dunn. I was Mr. Holman's private secretary. In the latter part of 1915, I was with Mr. Holman. In January, 1916, I think I was working for Mr. Holman. I remember about the organization of the Cement Manufacturers Protective Association. I had a great deal of correspondence in regard to that. On the part of the Atlas Cement Company Mr. Holman dictated the correspondence to me. Before the organization was effected, while they were forming it, extended over a period of several months, probably three or four, surely three or four. I have a recollection of the nature of the correspondence. The correspondence that led to the formation of the Cement Manufacturers Protective Association that was in the Atlas files I either sent to Mr. Thurlow Gordon or he came for it, and I made a written record and put it in the files and it was there when I left, and McAdoo, Cotton & Franklin have the entire file from the very first formation, every- [283] thing that had to do with the Cement Manufacturers Protective Association. McAdoo, Cotton & Franklin got everything about the formation of the Cement Manufacturers Protective Association. There were no other papers. They have everything about the formation of the Association. I cannot remember when the correspondence was taken, but I put a little slip of paper in the files and I had Mr. Thurlow Gordon's name written on it. Mr. Gordon's office had at first some papers of it and then they changed

their attorneys to McAdoo, Cotton & Franklin and it was put back in the files and I had to take them out and I do not remember whether Mr. Gordon came for them or I sent them over.

I never had anything to do with the minutes of the Association. Representatives of the other companies visited the Atlas office before the Association was formed. There was Mr. Young of the Lehigh, Mr. Bert Swett of the Lehigh, Mr. Coogan of the Alpha and Mr. Mallory of the Edison. Mr. Hilles of the Dexter. Mr. Moyer of the Vulcanite Company. I don't think I can recall Mr. Phelan. I remember Mr. G. S. Brown of Alpha, Mr. Griffith of the Giant, Mr. Smith of the Lawrence, Mr. Lober of the Vulcanite, Mr. Loeb of the Copley.

After the formation of the Cement Manufacturers Protective Association, Mr. Holman of the Atlas dictated such correspondence as was had with reference to the Association. Mr. Holman was assistant to the President and was in immediate charge of sales.

During the war period the Atlas office was naturally visited by the representatives of the other manufacturers in reference to the Government Portland Cement Committee.

Before the war period the Atlas Company was visited from time to time [fol. 284] time. They would not all come together. They would come in one by one and stay ten or fifteen minutes, twenty minutes, sometimes half an hour. Very seldom more than half an hour. They would go into Mr. Holman's room. I did not go in. That would occur at least once a month. I do not mean that all of these gentlemen whose names I have mentioned came in once a month. The names I mentioned were the men who came in before the formation of the Cement Manufacturers Protective Association. I didn't mean that the gentlemen kept coming in at least once a month. After the formation of the Association and up to the war period, those who came in were Mr. Swett of the Lehigh, Mr. Young of the Lehigh, Mr. Coogan of the Alpha, Mr. Mallory of the Edison, Mr. Moyer of the Vulcanite. Those are all I am sure of. Beginning with 1919 I believe more came into the office of the Atlas Company. They would not come in together during that period. They would come in one by one and I would have to announce them to Mr. Holman. They would not come during the same day. Very seldom they all came in on the same day, but two consecutive days. They would never be put in Mr. Holman's room together. I was told not to let certain ones see other ones there. We had two reception rooms and I would put one of them in one room and one in the other if two happened to come at one time. Mr. Holman gave me those instructions. That was kept up until the time I left, 1920.

There was correspondence between two or three companies before these people would come in. I have heard communications over the [fol. 285] phone. They had to do with freight rates; they had to do with the bag situation, the prices they were to charge the dealers for the bags in which the cement was shipped. I remember the parties between whom those telephone conversations I have mentioned passed. Mr. Holman called up Mr. Swett quite often in

reference to it. He called up Mr. Coogan quite often in reference to it, and Mr. Moyer. Those are the three men I am sure of.

As to those visits after the war period, they came in quite often. I can't give you any definite time, but not very far apart. After the war they came in much more often than they did before. That is all I can tell you. I heard none of their discussions.

I did not have anything to do with any allocation of sales as between the various cement manufacturers. I had a conversation with Mr. Miner at one time and with Mr. Holman another time with regard to sales.

The conversations were received only as against Mr. Miner.

In the early part of the formation of the Cement Manufacturers Protective Association, I happened to remark to Mr. Miner—I asked Mr. Miner why the Atlas Company on account of being such a large company should want to bring in other companies on an association and divide up the business with them, and Mr. Miner said, "Well, we will all get our pro rata share out of it and the Atlas will be [fol. 286] taken care of". I understood from the conversation that it would be allocated according to the production of each cement company. That is what he said.

After the organization nothing was done by the Atlas Company with reference to limiting its sales, or anything of that kind, at any time.

The Atlas Company knew the amount of sales of the other companies. I never heard Mr. Holman or Mr. Miner say anything about the quantity of those sales. I remember that Mr. Holman called certain salesmen off the road. I did not hear anything said as to why the salesmen were called off.

I removed certain correspondence (other than that delivered to Mr. Gordon). I took it out of the files and put it in one folder and gave it to Mr. Holman. That was just before the Government first started this investigation. I had a conversation with Mr. Holman as to what correspondence I was to remove from the files. Mr. Holman said that they had a suspicion that the Government was going to make an investigation and that I was to go through the files in his office and take out anything that I thought was of a damaging nature as I knew the correspondence naturally, knew what was damaging. I did that. I put it in a folder, got it all ready for Mr. Holman, put it on the center table in his room on his desk. He took it out and went into Mr. Miner's room and I never saw it after that. Shortly afterwards, two or three men, I just don't know how many, Government inspectors came and I had to show them where the files were and they went through the files. I think it was just before the war started, about 1913 or 1914—I think it was 1914, although I am not sure.

Just two or three times it happened that correspondence came to Mr. Holman from other cement companies relating to prices or [fol. 287] practices or anything of that kind. Mr. Swett wrote a letter and I remember calling Mr. Holman's attention to it and saying he was a perfect fool to write such a letter, and Mr. Holman

said, "Why, he is a damn fool and I will call him up on the phone", and he called him up on the phone and gave him a very good talking to.

The Court: When was this?

—That was just before the war started, the war abroad, in 1914.

Q. Did anything of that kind happen after the organization of the Association, or don't you remember?

A. Oh, this happened after the organization of the Association.

The Court: You say it was in 1914?

The Witness: I could be mixed up on my dates but not on the facts.

The Court: What is your recollection as to when that took place about somebody being a fool?

The Witness: My best recollection?

The Court: Yes.

The Witness: Well, now, I don't believe I can tell you my best recollection of it. I know it happened because I called it to Mr. Holman's attention.

I think the Association was formed in 1914. I am not clear about the date. When I talk about the beginning of the war I mean [fol. 288] when we were in it in 1917. This happened after the United States got into the war, on April 6, 1917. I can't answer whether it was before or after the war ended.

I know there was at one time bidding by the companies against each other, cutting prices under each other. I think it was in 1913. I think there was very little communication between the Atlas Company and the other cement companies at that time.

I fixed the date of this incident of which I gave an account of Mr. Holman telling me to take certain correspondence out of the files, at prior to the beginning of the world war in 1914. I meant that that incident was while the United States was at war.

Mr. Gaines was secretary or manager of the Association for some time. Mr. Gaines visited the Atlas office quite frequently—almost every day for weeks and conversed with Mr. Holman and Mr. MacFarland. He said his wife was worried that the Government had started this cement investigation. That was in 1919. She was afraid that he might be put in jail and he wanted to get out of this Cement Manufacturers Protective Association and he thought it was up to Mr. Holman to look after him. Shortly after that he was given a position in the Atlas Portland Cement Company's offices. I heard them discussing freight rates. They would talk about different jobs, contracts.

I heard conversation relating to Association matters but I am not sure whether they were held with Mr. Holman or Mr. McFarland because Mr. Holman was away so much. Mr. Gaines had the talk about getting out of the Cement Association with Mr. Holman. The conversation may have been in 1918 or 1919. I am not sure which.

[fol. 289] Cross-examination by Mr. Stimson:

I recognized Mr. MacFarland's signature on this paper dated October 20, 1916. It sounds like dictation that was dictated to me at one time. There is no way by which I can tell better than that whether it was dictated to me or not. I see my initials on it, but they could have been put on. I haven't the slightest doubt that somebody else might use my initials. That letter has on it at the bottom my initials, M. K. That is the way I used to write it. As to whether someone else put those initials on there, I can't tell you truthfully. I don't know what people would do. I don't remember that there was anybody else in the office whose initials were M. K. except me. There may have been. There was a Miss Kirchdorfer there. I don't know what her first name was. I don't know whether her first name was Clara. I was not that familiar with her. That is Mr. MacFarland's handwriting, I am satisfied about that.

Defendants' Exhibit D-24 for identification put in evidence, printed in Exhibit Book, p. —.

I can't swear that this letter which is shown me was dictated to me. It also has the initials M. K. at the bottom. I can't make this written signature out. The typewritten initials are L. G. M. L. G. M. is Mr. McConnell. He dictated letters to me and I wrote them out. The signature on this one dated January 23, 1917, is much more plain. I can make it out as L. G. McConnell. After looking at both of those letters, I say they may have been dictated by Mr. [fol. 290] McConnell to me. I am not sure. I do not swear to anything I am not sure about.

Offered in evidence Defendants' Exhibits D-65 and D-66, printed in Exhibit Book, p. —.

Mr. Morron went to Arizona, but I never kept much track of when he went and when he came. We had a salesman by the name of Thompson. Mr. Heft was in the office of the Atlas Company and had to do with sales.

Letter dated March 21, 1918, from Thompson to Heft, put in evidence. Defendants' Exhibit D-67, printed in Exhibit Book, p. —.

The signature on that, in pencil, looks like Mr. MacFarland's writing. The C. A. K. is Mr. Kimball's writing. Mr. Kimball had charge of sales.

Letter dated March 21, 1918, put in evidence. Defendants' Exhibit D-68, printed in Exhibit Book, p. —.

That was a salesman of the Atlas Company by the name of James.

Memorandum dated March 21, 1918 put in evidence. Defendants' Exhibit D-69, printed in Exhibit Book, p. —.

[fol. 291] Memorandum of telephone conversation put in evidence. Defendants' Exhibit D-70, printed in Exhibit Book, p. —.

Memorandum of telephone conversation put in evidence. Defendants' Exhibit D-71, printed in Exhibit Book, p. —.

Memorandum of telephone conversation put in evidence. Defendants' Exhibit D-72, printed in Exhibit Book, p. —.

Quotation of Alpha Portland Cement Company put in evidence. Defendants' Exhibit D-73, printed in Exhibit Book, p. —.

Memorandum signed by Mr. Kimball put in evidence. Defendants' Exhibit D-74, printed in Exhibit Book, p. —.

Memorandum concerning price of Saylor's cement, the brand of the Coplay Company, reducing the quotation to the base price, \$1.90, put in evidence. Defendants' Exhibit D-75, printed in Exhibit Book, p. —.

[fol. 292] Memorandum of Phœnix price put in evidence. Defendants' Exhibit D-76, printed in Exhibit Book, p. —.

Quotation of Vulcanite Portland Cement Company, March 21, 1918, put in evidence. Defendants' Exhibit D-77, printed in Exhibit Book, p. —.

Quotation of Alpha Company, dated March 21, 1918, put in evidence. Defendants' Exhibit D-78, printed in Exhibit Book, p. —.

Quotation of Dexter Company, March 21, 1918. Defendants' Exhibit D-79, printed in Exhibit Book, p. —.

Telegram from Mr. MacFarland to Mr. Morron, March 21, 1918, put in evidence. Defendants' Exhibit D-80, printed in Exhibit Book, p. —.

Telegram from Mr. Morron to Mr. MacFarland, March 21, 1918, put in evidence. Defendants' Exhibit D-81, printed in Exhibit Book, p. —.

[fol. 293] Telegram from Mr. MacFarland to Mr. Morron, March 21, 1918, put in evidence. Defendants' Exhibit D-82, printed in Exhibit Book, p. —.

Telegram from Mr. Morron to Mr. MacFarland, March 22, 1918, put in evidence. Defendants' Exhibit D-83, printed in Exhibit Book, p. —.

Telegram from Mr. MacFarland to Mr. Morron, March 23, 1918, put in evidence. Defendants' Exhibit D-84, printed in Exhibit Book, p. —.

Telegram from Mr. Morron to Mr. MacFarland, March 23, 1918, put in evidence. Defendants' Exhibit D-85, printed in Exhibit Book, p. —.

Telegram from Mr. Morron to Mr. MacFarland, March 24, 1918, put in evidence. Defendants' Exhibit D-86, printed in Exhibit Book, p. —.

Letter from Mr. Kimball to Philadelphia office of Atlas Company, dated March 22, 1918, put in evidence. Defendants' Exhibit D-87, printed in Exhibit Book, p. —.

[fol. 294] Letter from Mr. Kimball to Boston office of Atlas Company, dated March 22, 1918, put in evidence. Defendants' Exhibit D-88, printed in Exhibit Book, p. —.

I left the Atlas Company in 1920, after Mr. Burch had come in to occupy the room that formerly was occupied by Mr. Holman. He might have suggested some different place for me. I don't recall. I believe he did suggest that I should leave that room and go into other duties. He wanted to put me upstairs in the advertising department. That did not irritate me specially. I didn't think that I ought to be changed from that room. I did not leave the company in consequence of that. I certainly didn't leave the company in consequence of that. I handed in my resignation to Mr. Maxwell and he would not accept it, and I handed it in because things were just going to the dogs in the Atlas Company. They had a lot of fast women in there and I didn't want to work for them—for that and other reasons. Now, Mr. Stimson, you can go fully right through this and I will answer everything. I did have some words with Mr. Burch about changing my room. I had some words, yes. I left the company that morning.

I simply can't recall the name Mr. George W. Wirth. He was a clerk in the accounting department. I decidedly did not have any talk with him after my talk with Mr. Burch. I did not say to Mr. Wirth that I was going to get employment with another cement [fol. 295] company, and that I would get the Atlas Company. I didn't talk with Mr. Wirth. I surely did go and see Mr. Swett. He belonged to another company. He was up in the Lehigh Portland Cement Company. I may have tried to get a position from him. I believe I did. He promised me a position and was to call me up the next day. I never bothered calling up. In the meantime, I had my other position. I saw Mr. Swett the morning I left the Atlas. I believe I went straight from the Atlas to Mr. Swett's office. I happened to know the cement business, that is why I went there.

Q. Did you say to Mr. Swett that you knew a lot of things about the Atlas?

A. I didn't have to say it, Mr. Swett knew what I knew.

The Court: Answer the question.

Mr. Stimson: I move to strike that out.

The Court: Yes, strike it out.

The Witness: I may have spoken in general.

The Court: Just answer the questions that are put to you.

Q. You may have said that?

A. We discussed it in general.

As to my testimony about some of the correspondence in the Atlas files that I either sent to Mr. Gordon or that he came for, I don't recall ever having seen the gentleman who is standing up, before. You know I was not quite sure whether I sent it to him or he came for it. I know that Mr. Gordon was counsel for [fol. 296] the company at that time. So are you, but I don't remember ever seeing you before. I don't remember ever seeing Mr. Gordon before.

The name Mr. De Woody sounds familiar to me. I remember

there was a Mr. De Woody in the office at one time, a Government agent. He may have been from the Department of Justice in Washington. There were two gentlemen there from the Department of Justice. They were there, I remember them, right in Mr. Holman's room. I remember that Mr. MacFarland told me to give them the keys to the files. I remember somebody telling me, I don't remember who it was told me, to let them have carte blanche as far as the files were concerned. I couldn't tell how long they were there. They were there long enough to go through some of the files in my office. I couldn't tell you the year they were there; it was during the time the Government started to investigate the cement case. I know I was told to let them go through the files, and I did, and they went through the files. It was about four years ago, if that is the year that the Government started the investigation—not this investigation now, it was the beginning of this and it dropped during the war or something. About 1916 is my best recollection. I don't know what papers they took out of the files. As to whether it was a separate package of letters which these gentlemen took out of the files, that Mr. Gordon asked to see, all I know is that I was told to give Mr. Gordon the papers that were marked Cement Manufacturers' Portland Cement Association or Cement Manufacturers' Protective Association; and I gave them to him, I am sure of that. The set of [fol. 297] papers entitled "Summaries of Correspondence and Documents of the Atlas Portland Cement Company as examined by Mark Hyman and Charles De Woody on behalf of the Government," is not what I gave Mr. Gordon. I gave Mr. Gordon only matters that pertained to the formation and the tunning of the Cement Manufacturers' Protective Association, containing copies of the by-laws and things of that sort, memoranda. There were no minutes—a copy of the by-laws, a little memorandum relating to Mr. Cox, when he would come in the office and go over the facts, all the correspondence we had on the formation of the Cement Manufacturers' Protective Association was in that file. That was what I sent to Mr. Gordon. I don't believe Mr. Cox was in the Atlas office, but we wrote to Mr. Cox. I never saw Mr. Cox that I can recall.

The date when Mr. De Woody and those other gentlemen were making the investigation was just when the first investigation was started by the Government—I don't mean 1911, that investigation. I am not sure about the date. All I know is that the Government had just started an investigation.

It is agreed that the date was July, 1916.

I stated this morning that before the Government investigation began Mr. Holman came to me and told me that he had a suspicion the Government was going to make an investigation and asked me to go through the files and take out everything I thought was of a damaging nature. That was before those two gentlemen arrived. I am not sure how long before, it certainly wasn't a week.

[fol. 298] Q. Well, now, Miss Kavanagh, is it not a fact that Mr. Holman left on his illness in December, 1914?

A. I had a great deal of correspondence for Mr. Holman about what to do.

Q. You think that answers my question?

The Court: Please answer the questions; do not argue.

A. I don't know whether he was gone from December, 1914 until the spring of 1917, I thought it was a shorter time. Mr. Holman would come down to the city to visit his doctor once in a while, and come into the office. This morning Mr. Fowler was asking me about the time when this Cement Manufacturers' Protective Association was formed, and he asked me this question: "In January, 1916, Miss Kavanagh, you were working for Mr. Holman?" And I answered, "Yes, I think I was working for Mr. Holman." I think I was. I don't know what year Mr. Holman was away. Please understand that my mind isn't clear about the times that Mr. Holman was out of town. I was quite clear this morning about what I testified to as to what Mr. Holman said. I will reiterate everything I told you that Mr. Holman said to me. At the time he was giving me these instructions to take damaging letters from the files, he was my regular superior. I told you, Mr. Stimson, that he would write me my directions from wherever he was. I did not say this morning that he had written to me that I should take the damaging letters out of the files. I believe I said he told it to me. I may have been mistaken.

Q. Here is what you said this morning. The Court asked, "Did you have any conversation with Mr. Holman as to what correspond- [fol. 299] ence you were to remove from the files?" And you answered, "Yes, sir."

A. Yes, I did, I remember.

Q. And then you said, "Mr. Holman said that they had a suspicion that the Government was going to make an investigation, and that I was to go through the files in his office and take out anything that I thought was of a damaging nature?"

A. Did I say he said that to me in person?

Q. Yes, you said it as I have read it.

A. Repeat it again, please.

Q. "Mr. Holman said that they had a suspicion that the Government was going to make an investigation." Did Mr. Holman say that?

A. Couldn't he have said it in writing to me?

By the Court:

Q. Don't argue. Did he say it to you?

A. All I remember was that I was told by Mr. Holman to take it out, and I did. I am not sure about the date.

Q. Do you mean you were told by word of mouth?

A. Yes.

Mr. Holman gave me no instructions except to take out what was damaging. I took out what I thought was the damaging things and he went over them. I may have been mistaken about the year, but

Mr. Holman did it personally. He was in the room. I can see him just now if I close my eyes. I remember him telling me to take out these papers, I remember putting the papers on his desk, and I can [fol. 300] see him walking out of that room with the papers under his arm, going in to Mr. Miner. I can see the whole thing. I have a very vivid recollection of things that are not honest.

Q. Now this morning Mr. Fowler asked you, "In January, 1916, Miss Kavanagh, were you working for Mr. Holman?" And you answered, "Yes, I think I was working for Mr. Holman."

A. I qualified my statement, yes.

Q. "How was it in the latter part of 1915? A. I was with Mr. Holman." And he asked you, "Do you remember about the organization of the Cement Manufacturers' Protective Association? A. Yes, I had a good deal of correspondence in regard to that." Then a little later Mr. Fowler asked you, "Who on the part of the Atlas Cement Company conducted the correspondence, who actually wrote it?" And you said, "Who actually wrote the correspondence? Q. Who dictated it? A. Who dictated it to me? Q. Yes." And your answer was, "Mr. Holman." Do you remember that?

A. I do, decidedly.

Q. Are you willing now with your recollection refreshed to say that Mr. Holman was in New York at all in January, 1916, and the latter part of 1915?

A. I am not sure of my dates; I am sure of my facts, but not my dates.

Q. This is the date when the Cement Manufacturers' Protective Association was being organized?

A. Yes, but they had a lot of preliminary correspondence before it came into existence.

Q. As a matter of fact, Mr. Holman had been away for a year?

A. Had he?

[fol. 301] Q. Before the latter part of 1915, hadn't he?

A. He hadn't been in New York at any time in between?

Q. Well, I ask you.

A. Well, I am asking you, too.

By the Court:

Q. You were there working for him, you ought to be able to answer the question.

A. I don't remember.

Q. Well, then, say you don't remember; don't spar with counsel.

By Mr. Stimson:

Q. Mr. Fowler asked you about dates, didn't he, the latter part of 1915, and 1916?

A. Didn't I say that I thought? You just read it to me.

Q. "Who actually wrote it? A. Mr. Holman."

A. Preceding that, please.

Q. "How was it in the latter part of 1915? A. I was with Mr. Holman."

A. Preceding that didn't I say, "I think."

Q. "In January, 1916, Miss Kavanagh, were you working for Mr. Holman? A. Yes, I think I was working for Mr. Holman."

A. I qualified my statement; I was not sure about it. I said, "I think."

Q. You qualified it very thoroughly, didn't you?

A. I was very careful to. I don't want to get myself into trouble by telling lies.

[fol. 302] Re-direct examination by Mr. Fowler:

I did not voluntarily call upon the attorneys or agents of the Government in this case. I never saw the attorneys for the Government until after I had received subpoena April 6th. I did not desire to appear and would not have appeared voluntarily.

[fol. 303] Circular letter of Cement Manufacturers Protective Association, dated February 21, 1918, put in evidence. Government's Exhibit No. 204, printed in Exhibit Book, p. —.

Circular letter of Cement Manufacturers Protective Association, dated February 26, 1918, put in evidence. Government's Exhibit No. 205, printed in Exhibit Book, p. —.

Circular letter of Cement Manufacturers Protective Association, dated November 13, 1918, put in evidence. Government's Exhibit No. 206, printed in Exhibit Book, p. —.

Circular letter of Cement Manufacturers Protective Association, dated January 29, 1919, put in evidence. Government's Exhibit No. 207, printed in Exhibit Book, p. —.

Circular letter of Cement Manufacturers Protective Association, to Credit Managers put in evidence. Government's Exhibit No. 208, printed in Exhibit Book, p. —.

Circular letter of Cement Manufacturers Protective Association, dated February 6, 1918, to Sales Managers put in evidence. Government's Exhibit No. 209, printed in Exhibit Book, p. —.

[fol. 304] Circular letter of Cement Manufacturers Protective Association, dated March 10, 1919, put in evidence. Government's Exhibit No. 210, printed in Exhibit Book, p. —.

Circular letter dated March 17, 1919, put in evidence. Government's Exhibit No. 211, printed in Exhibit Book, p. —.

Circular letter dated May 10, 1919, put in evidence. Government's Exhibit No. 212, printed in Exhibit Book, p. —.

Circular letter dated May 19, 1919, put in evidence. Government's Exhibit No. 213, printed in Exhibit Book, p. —.

Circular letter dated July 11, 1911, put in evidence. Government's Exhibit No. 214, printed in Exhibit Book, p. —.

Circular letter dated July 22, 1919, put in evidence. Government's Exhibit No. 215, printed in Exhibit Book, p. —.

Letter dated September 8, 1919, from the Giant Company to Cement Manufacturers Protective Association, put in evidence. Government's Exhibit No. 216, printed in Exhibit Book, p. —.

[fol. 305] Letter dated September 12, 1919, from Giant Portland

Cement Company to Glens Falls Portland Cement Company, put in evidence. Government's Exhibit No. 217, printed in Exhibit Book, p. —.

Letter dated September 15, 1919, from Glens Falls Company to Giant Company, put in evidence. Government's Exhibit No. 218, printed in Exhibit Book, p. —.

Letter dated September 24, 1919, from Giant Company to Glens Falls Company put in evidence. Government's Exhibit No. 219, printed in Exhibit Book, p. —.

Telegram dated October 17, 1919, from Glens Falls Company to Cement Manufacturers Protective Association put in evidence. Government's Exhibit No. 220, printed in Exhibit Book, p. —.

Letter dated October 21, 1919, from Mr. Archibald Cox to Mr. H. S. Gaines, Vice-President of Cement Manufacturers Protective Association, put in evidence. Government's Exhibit No. 221, printed in Exhibit Book, p. —.

[fol. 306] It is agreed that Exhibit No. 221 was written after the Government started a civil suit against these defendants, under the Anti-Trust Law, in the District of New Jersey, in August, 1919.

Letter dated October 24, 1919, from Giant Company to Glens Falls Company, put in evidence. Government's Exhibit No. 222, printed in Exhibit Book, p. —.

Letter dated October 27, 1919, from Glens Falls Company to Giant Company, put in evidence. Government's Exhibit No. 223, printed in Exhibit Book, p. —.

Letter dated February 18, 1916, from R. E. Griffith, President of Cement Manufacturers Protective Association, to Charles W. Bacon, Secretary, put in evidence. Government's Exhibit No. 224, printed in Exhibit Book, p. —.

Reply to Exhibit No. 224 put in evidence. Government's Exhibit No. 225, printed in Exhibit Book, p. —.

[fol. 307] Letter dated March 25, 1916, from Mr. Brobston of Dexter Company to Mr. Griffith, President of Cement Manufacturers Protective Association, put in evidence. Government's Exhibit No. 226, printed in Exhibit Book, p. —.

Letter dated March 1, 1916, from Mr. M. S. Ackerman, of Lawrence Portland Cement Company, to Mr. Griffith, President of the Association, put in evidence. Government's Exhibit No. 227, printed in Exhibit Book, p. —.

Letter dated May 22, 1917, from Secretary to President of Cement Manufacturers Protective Association, put in evidence. Government's Exhibit No. 228, printed in Exhibit Book, p. —.

Letter dated February 1, 1918, from Mr. Holman, Chairman, to H. S. Gaines, Vice-President of Association, put in evidence. Government's Exhibit No. 229, printed in Exhibit Book, p. —.

Letter dated May 4, 1916, from Mr. Cover of Security Company to President of Cement Manufacturers Protective Association, put in evidence. Government's Exhibit No. 230, printed in Exhibit Book, p. —.

[fol. 308] Reply letter dated May 6, 1916, put in evidence. Government's Exhibit No. 231, printed in Exhibit Book, p. —.

Letter dated February 28, 1915, from Mr. Gaines to Mr. Holman, put in evidence. Government's Exhibit No. 232, printed in Exhibit Book, p. —.

Letter dated January 27, 1920, from Mr. Gaines to Mr. Stapleton, of the Tidewater Portland Cement Company, put in evidence. Government's Exhibit No. 233, printed in Exhibit Book, p. —.

Letter dated May 14, 1918, from Mr. Beach, of Cayuga Cement Corporation, to Mr. Bayle, of Glens Falls Company, put in evidence. Government's Exhibit No. 234, printed in Exhibit Book, p. —.

Letter dated December 31, 1915, from W. S. Mallory, President of Edison Company, to A. C. Steece, Treasurer of Ironton Portland Cement Company, Ironton, Ohio, put in evidence. Government's Exhibit No. 235, printed in Exhibit Book, p. —.

[fol. 309] Letter dated January 21, 1916, from Mr. Griffith of Giant Company, President of Cement Manufacturers Protective Association, to Mr. Hardy, President of Dixie Portland Cement Company, Chattanooga, Tennessee, put in evidence. Government's Exhibit No. 236, printed in Exhibit Book, p. —.

Letter dated April 10, 1916, from Mr. Griffith to Mr. Corbett of Alsen's American Portland Cement Works, New York City, put in evidence. Government's Exhibit No. 237, printed in Exhibit Book, p. —.

Letter dated May 7, 1917, from W. D. Lober, President of Cement Manufacturers Protective Association, to J. K. Barbour of Security Company, put in evidence. Government's Exhibit No. 238, printed in Exhibit Book, p. —.

Letter dated November 29, 1918, from Mr. Gaines, Vice-President of Association, to Mr. Archibald Cox, put in evidence. Government's Exhibit No. 239, printed in Exhibit Book, p. —.

[fol. 310] Letter dated March 26, 1919, from Mr. Matthes, of Alpha Company, to Mr. Gaines, of Association, put in evidence. Government's Exhibit No. 240, printed in Exhibit Book, p. —.

Reply letter dated April 1, 1919, put in evidence. Government's Exhibit No. 241, printed in Exhibit Book, p. —.

[fol. 311] HUGH NAWN, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I am a general contractor in Boston, Mass. My firm has been in business since 1852. I have been actively connected with it since 1910. We use from 25,000 to 150,000 barrels of cement a year. We have had contracts requiring upwards of half a million barrels of cement. In 1919, we had the contract for the Gilboa dam, in the Catskill Mountains between Kingston and Albany, in New York State, aggregating from 400,000 to 500,000 barrels of cement. We contracted with two concerns for that cement, the Whitehall Company and the Nazareth Company. We made both contracts at prac-

tically the same time, within a period of weeks. We paid Whitehall \$2.83 a barrel and Nazareth \$3.06 barrel delivered at the station. We got quotations from, I should say, three or four other cement companies. They quoted \$3.06. The Atlas Portland Cement Company was one. I cannot recall the others. We have received quotations for cement from the cement companies from time to time. The prices are usually the same. I do not recall the prices being different except in this instance of the Gilboa dam, where the Whitehall price was different. The discounts, as I recall them, were the same. The prices for bags, as I recall them, were the same, although they might fluctuate from time to time during the season, that is, you might get at times a 10 cent allowance on bags and at other times a 15 cent [fol. 312] allowance on bags and as high as 25 cents allowance on bags, but they were usually the same as between the companies.

Cross-examination by Mr. Stimson:

I am a contractor not a dealer. I have never had any trouble in getting direct bids from the cement companies. The contracts for the cement for the Gilboa dam were signed in June or July, 1919, as I recall it. I did not mention the Knickerbocker Company as bidding for that cement. I recall that the Knickerbocker Company spent quite a good deal of time with me trying to get the contract. I remember their salesman was out to see us on several occasions. They tried to work out a price over a rail and water route. I would not say that the Knickerbocker price was not lower than the other companies. It might have been; I don't know.

I don't remember talking to Mr. Smith of the Lawrence Company about prices for cement for road work in New Jersey. I may have talked to Mr. Smith on road prices, I don't remember. My father handles most all of that road work. I don't remember saying to Mr. Smith that I had had three different prices from the cement companies for that work, before we gave it to the Pennsylvania Company. I would not say that the contract with the Pennsylvania Company was finally cancelled on the ground that the dealer complained about our credit. I don't remember about it. That might have been true.

[fol. 313] I brought the name of the Atlas Company into the matter of the Gilboa dam contract; there was nothing malicious about it. I don't think we owe them any money. We had some bother with them, but we didn't hold that against the Atlas Company.

We did make a contract with the Atlas Company on cement for the Gilboa dam, in addition to two contracts I mentioned with the Whitehall and Nazareth Companies. That contract was for more than 100,000 barrels. I think it was for 150,000. We did not take a barrel of it. We didn't need it. We were being supplied all right without it.

Redirect examination by Mr. Fowler:

If the Knickerbocker had offered us cement cheaper than Nazareth, there was no reason why we should not take it. It was a question of

dollars and cents with us, largely. We had a contract with Atlas. The price was \$3.06, exactly the same as Nazareth.

[fol. 314] WILLIAM F. FELTON, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I am a general contractor, in Buffalo, New York, and have been for the last thirty years. I purchase my cement through the dealers. Occasionally I get quotations from the cement manufacturers, too. Salesmen of the several manufacturers call on me and then I consult the dealers about prices, also. The prices that have been quoted to me by the manufacturers, or their agents, or the dealers, have been the same. I have endeavored to buy cement from three or four manufacturers lately. I did not find any difference in prices or in the proposed terms of a discount or in the price for the return of bags. About the only reason I would buy from one in preference to another, is that I might prefer one party over the other.

Cross-examination by Mr. Stimson:

Very often in my jobs I prefer to buy through the dealers than to buy direct. The dealers store the cement and deliver it when you want it, and you don't have to store the cement on the job.

Prices of cement at the same time are the same prices. That is the case not only in cement, but it is the case as to a good many other [fol. 315] products that we handle in the same way as we do cement. The price furnished by the different manufacturers is likely to be the same.

I have received quotations from the Edison Company, among others. I think I received this circular or announcement.

Put in evidence Defendants' Exhibit D-137, printed in Exhibit Book, p. —.

I remember the situation in 1920. Bearing in mind that summer, I don't think that the prices of the cement manufacturers were uniform all through that summer and spring. I couldn't say as to whether there was then a great diversity in price between the different companies. I couldn't say whether the Pennsylvania Company, for instance, was 25 cents a barrel below the other companies, or whether two other companies were a dollar above; I don't remember; I don't know.

Redirect examination by Mr. Fowler:

I received these papers.

Put in evidence as follows:

Quotation from Giant Company, Government's Exhibit No. 256;

Quotation from Coplay Company, Government's Exhibit No. 257;

Quotation from Lehigh Company, Government's Exhibit No. 258;
Quotation from Vulcanite Company, Government's Exhibit No. 259;

Quotation from Whitehall Company, Government's Exhibit No. 260. Printed in part in Exhibit Book, p. —.

[fol. 316] Recross-examination by Mr. Stimson:

The bid of the Giant Company allows 15 cents for sacks, which would be 60 cents a barrel. The bids of the Lehigh, Coplay and Vulcanite Companies allow the same. Deducting the 60 cents a barrel from the price, \$2.88, gives \$2.28 a barrel. The Whitehall bid allows 40 cents a barrel for sacks. Deducting that from their price, \$2.78, leaves \$2.38. That is, the Whitehall price is 10 cents higher than the others.

[fol. 317] WALTER P. WRIGHT, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I am engaged in the building construction business in Richmond, Virginia, and have been for fifteen years. My company is the Wise Granite and Construction Company, Inc. We use a considerable amount of cement. We buy through the dealers. We receive bids from cement manufacturers and their sales agents call upon us. We inquire of them about the prices of cement and we also inquire of the dealers, of course. At the same time, there is no difference between the prices given us by these various manufacturers. That has been so since 1914. The discount offered is also the same. The price allowed us for bags returned is the same.

Cross-examination by Mr. Stimson:

My answer applied to all companies that I know anything about. There are companies in my district that are not defendants here at all. The Tidewater, for instance, is there. I include that in what I said about these other things.

[fol. 318] THOMAS HANRAHAN, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I am a building contractor at Schenectady, New York. My business is confined to buildings, school buildings principally. I use from two thousand to twelve thousand barrels of cement a year. I have been in that business twenty-one years. Most of our quotations for cement come through the dealers. I have on different occasions, not very often, received quotations from the manufacturers. I have

received quotations from their salesmen at the same time. They have been practically the same, with the exception of one occasion, where the Lehigh quoted me 5 cents less. That was in 1919 at the Cohoes High School. There was something with reference to a freight rate about that, but I don't know what it was. I have no recollection of any difference in the prices quoted by the several manufacturers, with that one exception. There was no difference in the rate of discount. There was no difference in credit for sacks. There were all the same, 12, 15 and 10.

Cross-examination by Mr. Stimson:

I always buy by car-loads. At the time I spoke of, when the Lehigh Company under-bid the others by 5 cents a barrel, there were other companies who put in bids. The Glens Falls Cement Company might have been 5 cents higher.

[fol. 319]. The mill of the Glens Falls Company is situated in the City of Glens Falls. Glens Falls is about 30 miles from Cohoes. The mill of the Lehigh Company is situated in the Lehigh Valley down in Pennsylvania.

The entry on the report made by the Association dated July 1, 1919 accurately describes the contract for cement purchased for the Cohoes High School, viz.:

Name of party with whom contract was made: Thomas Slavin.

Delivery point: Cohoes, N. Y.

Description of work: High School, Corner Columbia and Beven Sts., Cohoes, N. Y. (Hanrahan Bros.).

Name of cement: Lehigh.

Date contract closed: June 20, 1919.

Expiration date: July 1, 1919.

Barrels sold: 4,500.

Delivery price including package: \$2.65.

[fol. 320] WILLIAM WHITE, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I have been in the subcontracting business in Philadelphia, Pennsylvania, since 1915—cement work, reenforced concrete. I use in some years not more than five thousand barrels of cement, some years ten, possibly fifteen. I buy the cement mostly from the manufacturer. The manufacturers quote me direct. They send their sales agents to me if it is any size job worth going after. There isn't any difference between the quotations to me at the same time for the same job from these various manufacturers. There is no difference as to discounts or as to the price of returned bags. That has been so since I have been doing business.

I have bought cement mostly from the Nazareth and Lehigh. I have not had printed quotations from other concerns, but they have give me their prices from time to time.

[fol. 321] JOHN O'CONNELL, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I am treasurer and purchasing agent of the Harrisburg Railways Company, of Harrisburg, Pa. I have been purchasing cement for the company for about fifteen years. Possibly four or five manufacturers have been quoting cement to me. Sometimes verbally, by salesmen, and sometimes in writing. My experience has been that there has not been a difference in price with the people we have been dealing with, principally the Vulcanite, Atlas and Lehigh Companies, and very often through local dealers. My recollection is that the price for the return of bags was the same.

[fol. 322] CLYDE C. OAKLEY, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

For the last eight years I have been engaged in building construction in Newark, New Jersey. The concern I am with uses approximately thirty thousand barrels of cement a year. I am office manager. We have received quotations from the Alpha, Atlas, Lawrence, Lehigh—I might say most all of them. We have never found any difference in price between the different companies' quotations. That has been so back to around 1914. At that time we did have a quotation from one company for a couple of days which was 5 cents less, and a couple of days after that another company would come down 5 cents less, and then they would all come down to it, until eventually it reached the price of 65 cents in Newark, f. o. b. cars. I think that was in 1913 or 1914. Since that time the companies were all giving the same quotations. The discounts are the same and the price of returned bags. There has not been any difference in prices and terms offered me by these several companies since 1914.

Cross-examination by Mr. Stimson:

I remember the conditions that existed in 1920. The conditions [fol. 323] conditions of which I spoke just now in answer to Mr. Fowler did not remain the same during 1920. I spoke generally of that time.

[fol. 324] GEORGE W. KRIEGER, JR., called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I am a contractor in Poughkeepsie, New York, and have been since 1916. I use about five thousand barrels of cement a year.

I receive quotations from the manufacturers and dealers. The manufacturers send their agents to me from time to time. The prices quoted to me by the manufacturers at the same time have been the same, as I recall it. The rate of discount has been the same. The amount allowed for returned bags has been the same. There was no difference between the price quoted me from the dealers and from the manufacturers.

Cross-examination by Mr. Stimson:

The cement that I buy is generally handled by dealers for me. They receive it, store it and deliver it to me when I want it. That is a very great convenience. The dealer extends credit and that is quite a valuable service.

Plaster or lime comes in bags and the same custom as to returning the bags prevails. That is, the bags are taken back at the same price which I paid for them when they came. The same similarity in the price of bags prevails in the case of plaster and lime as it does in the case of cement. All the bags that I buy from the different plaster manufacturers are returned at the same prices. That is true, also, of lime.

[fol. 325] LESTER C. NESBIT, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

For four years I have been auditor and purchasing agent for G. W. Ensign Company, contractors, Harrisburg, Pa. I do the purchasing of cement for the company. The amount varies from probably five thousand to ten or twelve thousand barrels a year. In most cases we buy direct from the manufacturer. In some cases through the dealer. The manufacturers quote us direct. We also see their salesmen. The prices given us by the manufacturers are the same, as I remember them. The discounts are the same. The prices of returned bags are the same. That has been so during the four years, to the best of my memory.

Cross-examination by Mr. Stimson:

I was speaking merely of the prices quoted. I have known of cases where those quotations have been cut by the different companies. In some few instances we bought cement below the quotations from companies that are defendants here.

The salesmen of these different companies come around whenever they hear that we have a big job. They try to get us to take their cement. They sometimes tell us they will cut their prices. They have done it. The salesmen are very active. They come buzzing [fol. 326] around us like a lot of flies.

Re-direct examination by Mr. Fowler:

The first company that ever cut the quotation made to us, as I remember, was the Bath. That was in November or December, 1921. Three or four years ago there was a cut from the Security on more than one job. My recollection is that this Security business was about in 1919—1918 or 1919. There were several jobs that we did at that time. Some of it was Reading Railroad work. There were probably three or four, may have been half a dozen, of those jobs bought from the Security. That was bought through a dealer. According to my recollection we got about 5 cents a barrel less—a cut of 5 cents a barrel from the dealer. The next case that I can remember was when the Bath gave us a lower rate in November last. That was for a bridge for the Philadelphia and Reading Railway. The cut at that time was about 16 cents a barrel under the quoted price. That was billed to us through a dealer after I had talked to the cement men about it. We were asked to keep that a secret. More than one salesman quoted us verbally in that manner and asked us to be very careful to tell nobody else about it.

[fol. 327] JOHN L. SHADE, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I live in Philadelphia. For about ten months I have been purchasing agent for Viscose Company, manufacturing artificial silk and building plants as quickly as we can get them up. Prior to that time I was with the Philadelphia Electric Company as assistant purchasing agent in charge of power house construction. In the past four or five years I have bought about a half million barrels of cement and received quotations from possibly ten different companies, Bath, Atlas, Alpha, Allentown, Lehigh, Giant, Vulcanite, Security and Tidewater. There has never been any difference in the quoted price at the same time. The discounts have always been uniform. The price of returned bags has been the same.

We constructed an artificial silk plant at Roanoke, Virginia, which I have been told is about 52 miles from Fordwick, using in the plant forty thousand barrels of cement. We bought the cement from the Security. \$3.00 a barrel was the original contract price, and when deductions became effective we got the benefit of them. The contract was made either July or August, 1921. I received bids from the different cement companies. There was no difference in the quoted prices. I attempted to negotiate a special price. I [fol. 328] first negotiated a price with the Tidewater Company, a special price, and then I used that as a sort of club to beat the others down. The price finally dropped from \$3.14, which was Security's original quoted price, to \$3.00, and I bought at \$3.00, and it went down by pennies or two pennies at a time. I don't mean to say

that Security was the only one that dropped, because they were not. A few went down with it, but they didn't go that low.

The Lehigh have a factory at Fordwick. I carried on special negotiations with Lehigh. They were the first ones I went to because they had the advantage of a good location, that is, they were the closest mill to the job. I asked their salesman, Fred Ford, why he couldn't give me a lower price because he had a closer mill. He told me he would either give me the Lehigh cement shipped from the Lehigh Valley or Lehigh cement from Fordwick at the same price. He would make no difference in the delivered price whatever, although the freight was considerably less. I deducted the freight on the Lehigh cement from his delivered price and got the mill price and asked him to sell me that same cement at Fordwick at that base price and allow me to pay the freight. He said they wouldn't do that. They wanted to deliver it at the delivered price. I bought Security cement. I may have asked Ford why, but I did not get any sort of intelligent answer at all from him. I don't recall what he said.

[fol. 329] Cross-examination by Mr. Stimson:

The Lehigh Company is the only company that has a mill at Fordwick. If the Lehigh Valley mills had quoted me a higher price than the Lehigh Company from Fordwick, I would not have considered their cement at all. This work and these bids were in either July or August, 1921. Bags at that time were 10 cents a piece, 40 cents a barrel.

[fol. 330] A. LEE GROVER, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I reside at Trenton, New Jersey, and since April 1, 1917, have been Secretary and Chief Clerk of the State Highway Commission of New Jersey. Prior to 1917, I was Chief Clerk for the Commission of Public Roads, but did not have anything to do with buying cement. Since April 1, 1917, the State Highway Commission has taken only four propositions for the purchase of cement. The first proposition was for the construction of a section of State highway between Menlo Park and Rahway, estimated at 19,000 barrels. Six bids were submitted.

Bids and correspondence put in evidence, Government's Exhibits Nos. 317 to 322, inclusive, printed in part in Exhibit Book, p. —

On March 6, 1919, the State Highway Commission adopted a resolution that prices be obtained from cement companies east of the Mississippi River with a statement of the price at which Portland cement will be sold by them f. o. b. the plant.

Copy of resolution put in evidence. Government's Exhibit No. 323, not printed by consent.

We procured from the Portland Cement Association a list of all manufacturers of cement east of the Mississippi River, and requested all of them to submit bids. We received replies from about twenty companies, including a number of the defendant companies and [fol. 331] Crescent Portland Cement Company, Dixie Portland Cement Company, Iron-ton Portland Cement Company, Cosmos Portland Cement Company, Louisville Cement Company, and Whitehall Cement Manufacturing Company.

Circular letter and replies from Allentown Portland Cement Company, Alpha Portland Cement Company, Atlas Portland Cement Company, Coplay Cement Manufacturing Company, Dexter Portland Cement Company, Edison Portland Cement Company, Giant Portland Cement Company, Knickerbocker Portland Cement Company, Lawrence Cement Company, Lehigh Portland Cement Company, Penn-Allen Portland Cement Company, Phoenix Portland Cement Company, Vulcanite Portland Cement Company, and letters relating thereto, put in evidence. Government's Exhibits Nos. 324 to 338, inclusive, printed in part in Exhibit Book, p. —.

Bids on the next proposition were due March 22nd, 1921. We received quotations from the Edison, Vulcanite, Pennsylvania, Alpha and Atlas Company, and from George M. Friese, of Rahway, New Jersey.

Put in evidence Government's Exhibits Nos. 339 to 344, inclusive, printed in part in Exhibit Book, p. —.

[fol. 332] Cross-examination by Mr. Stimson:

Letters which passed between the Vulcanite Company and the State Engineer in March, 1919, put in evidence. Defendants' Exhibit D-148, printed in part in Exhibit Book, p. —.

There was no contract awarded on the inquiry contained in the circular letter dated March 12, 1919 (Government's Exhibit No. 326). We bought cement for the job between Menlo Park and Rahway from Manning, Freeman & Son, on the quotations that we first read. They furnished Edison cement. The Edison Company quoted us a price right at the mill. In spite of that, we finally bought at a delivered price through a dealer. I don't know whether the advantages of buying at a delivered price and through a dealer led to that. The placing of the orders came from my division. I know nothing of what led up to the placing of the order.

This list of the replies which we got from the different cement companies is a summary prepared under my direction.

Put in evidence Defendants' Exhibit D-149, printed in part in Exhibit Book, p. —.

Letter from State Highway Engineer to Vulcanite Portland Cement Company, dated March 22, 1919, put in evidence. Defendants' Exhibit D-147, printed in Exhibit Book, p. —.

[fol. 333] DOUGLAS THROPP, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I am General Manager for a coal and iron concern at Everett, Pa. We do our own concrete work. Some years we use several thousand barrels of cement. Other years we don't use but a hundred barrels or so. Every time we need any cement, we write around to the cement companies and get quotations. We have not bought any cement to speak of within about three years. We bought most of our cement in 1916 and 1917 during the war, when we were going through an extensive construction program, and some in 1918. In 1916, we bought two or three thousand barrels. We received quotations that year from the Security Company, the Lehigh Company, the Lawrence Company and the Tidewater Company. I have only two quotations in writing. Most of them were made to us verbally by traveling men. This is the quotation from the Security Company.

Letter dated May 18, 1916, put in evidence. Government's Exhibit No. 345, printed in part in Exhibit Book, p. —.

This is the contract with the Lehigh Company.

Put in evidence Government's Exhibit No. 346, printed in part in Exhibit Book, p. —.

[fol. 334] I had a conversation with the representative of the Lehigh Company, located at Harrisburg, who had charge of our territory—I can't exactly remember his name, but I think it was Mr. Allen—in or about May, 1916. He quoted his price. I told him I wanted a lower figure. He said he could only get it, he thought, if he could get our name put on the Association list of dealers, and that then he could get a reduced price for us if our name was authorized by their Association; and later on, within a week or so, we got a contract from the Sales Manager of the Lehigh Company, giving us the dealer's price through one of our stores. The deduction was five cents a barrel. This letter, dated June 3, 1916, is the modified contract for the same thousand barrels covered by Government's Exhibit No. 346, at the reduced price.

Put in evidence Government's Exhibit No. 347, printed in Exhibit Book, p. —.

Whenever we had any need to buy cement, we would get quotations. All quotations whenever we received them over a period of

years, were always the same at any one time, with one exception. That exception was that the Tidewater Portland Cement Company for a while was 2 cents a barrel below the others. There was no difference so far as discounts were concerned, the rates of discount, the time within which cash payments should be made, or in the rate on the returned sacks.

[fol. 335] I talked with—I think his name is Allen, if my memory serves me. He claimed to be a representative of the Lehigh Company. He said he was a salesman or representative. He said he had to submit the quotation to Mr. Swett. He visited me to solicit our cement orders. He said he couldn't get any lower price because they weren't allowed to name any lower price by the Association.

Offered and received only as to the Lehigh.

The same conversation was repeated on two or three different occasions. The first time was in or about May, 1916, when he came over and quoted \$1.88, and I told him I wanted a lower price, and he then suggested that if he could get our name put on the dealers' list of the Association and it was approved by the head office, he could get me 5 cents a barrel less. The next time that he made the statement was during the war, when he stated we couldn't get a lower price than we were then enjoying as dealers. I talked with him one or two times during the war period. I have not conversed with him about it since the war. We had a dispute with the company and have not dealt with them.

Cross-examination by Mr. Stimson:

This conversation that I have spoken of took place six years ago this coming May. He represented himself to be selling the product of the Lehigh. He was trying to get our business and I told him [fol. 336] I wouldn't give it to him at the price quoted. He got that contract at 5 cents less. We operated these four or five stores and sell a quarter of a million dollars' worth of stuff every year. We sell some building supply stuff. He stated that he was going to communicate with his office and find out whether we were on the list of recognized dealers, that we had to be on the Association list or he couldn't quote. His communication was going to be with his company. He was going to write to his Sales Manager. All I know about the existence of any list is what he told me. In spite of the interval of six years I am sure that my testimony on this subject is accurate. My second conversation with the representative of the Lehigh Company was during the war, four or five years ago. At that time I told him if he could get the price reduced we would give him an order. He replied—we have a fixed price agreed upon between all the companies and our company cannot cut it.

[fol. 337] MARY BELLE PHALEN recalled.

Cross-examination by Mr. Stimson:

The Cement Manufacturers' Protective Association has not in the time of my connection with it had or kept a list of authorized dealers. I have never seen such a list among its papers. I have never heard of such a list. The Association's papers have been in the possession of the Government for a year.

[fol. 338] THOMAS F. SULLIVAN, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I have been Chairman of the Boston Transit Commission since the first of this month. I have been one of the three Commissioners since the first of July, 1918. Since I have been on the Commission, they have only made two purchases of cement, one within a few weeks and the other one in 1919. In 1919, we contracted for from ten to twenty thousand barrels of cement. We advertised for bids in the proper papers. These bids were submitted by cement dealers in Boston.

The Commission advertised for bids in 1916 and received bids from five manufacturers and a number of dealers.

Bids of Allentown, Lehigh, Alpha, Coplay and Atlas Company put in evidence. Government's Exhibits Nos. 348 to 352, inclusive, printed in part in Exhibit Book, p. —.

Every company quoted \$1.87 per barrel of four bags and the price included the bags. Each Company allowed 10¢ for each bag returned with freight prepaid to mill. Each Company allowed a discount of 5¢ per barrel for payment within ten days from date of invoice.

The job was given to the Boston Building Material Company, a dealer, the lowest bidder.

Cross-examination by Mr. Stimson:

The brand of cement that was used was Alpha. These quotations were made on forms that were prepared by our Commission, and are not on printed quotations of the companies.

[fol. 339] In the case of the same articles coming from different manufacturers, it is not at all unusual to find the same discount, the same rate of discount. It is almost always a standard discount.

[fol. 340] The following letters put in evidence:

Letter from Phoenix Company to Protective Association, dated March 17, 1916, Government's Exhibit No. 353. Printed in Exhibit Book, p. —.

Vulcanite Company to Protective Association, March 17, 1916, Government's Exhibit No. 354. Printed in Exhibit Book, p. —.

Dexter Company to Protective Association, March 21, 1916, Government's Exhibit No. 355. Printed in Exhibit Book, p. —.

Dexter Company to Protective Association, April 7, 1916, Government's Exhibit No. 356. Printed in Exhibit Book, p. —.

Knickerbocker Company to Protective Association, March 30, 1916, Government's Exhibit No. 357. Printed in Exhibit Book, p. —.

Protective Association to Knickerbocker Company, March 31, 1916, Government's Exhibit No. 358. Printed in Exhibit Book, p. —.

Vulcanite Company to Protective Association, March 27, 1916, Government's Exhibit No. 359. Printed in Exhibit Book, p. —.

[fol. 341] Protective Association to Vulcanite Company, August 3, 1916, Government's Exhibit No. 360. Printed in Exhibit Book, p. —.

Vulcanite Company to Protective Association, June 16, 1916, Government's Exhibit No. 361. Printed in Exhibit Book, p. —.

Alpha Company to Protective Association, November 7, 1916, Government's Exhibit No. 362. Printed in Exhibit Book, p. —.

Lehigh Company to Protective Association, November 16, 1917, Government's Exhibit No. 363. Printed in Exhibit Book, p. —.

Alpha Company to its salesmen, August 26, 1918, Government's Exhibit No. 364. Printed in Exhibit Book, p. —.

Lawrence Company to Protective Association, July 12, 1918, Government's Exhibit No. 365. Printed in Exhibit Book, p. —.

Allentown Company to Protective Association, April 25, 1918, Government's Exhibit No. 366. Printed in Exhibit Book, p. —.

R. E. Griffith, of Giant Company to Frank H. Smith, of Lawrence Company, March 5, 1916, Government's Exhibit No. 367. Printed in Exhibit Book, p. —.

[fol. 342] Atlas Company to Protective Association, June 14, 1917, Government's Exhibit No. 368. Printed in Exhibit Book, p. —.

Atlas Company to Protective Association, June 11, 1917, Government's Exhibit No. 369. Printed in Exhibit Book, p. —.

Atlas Company to Protective Association, June 1, 1917, Government's Exhibit No. 370. Printed in Exhibit Book, p. —.

Atlas Company to Protective Association, June 27, 1917, Government's Exhibit No. 371. Printed in Exhibit Book, p. —.

Atlas Company to Protective Association, June 1, 1917, Government Exhibit 372. Printed in Exhibit Book, p. —.

[fol. 343] HOWARD E. CHURCH, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

For about ten years I have had supervision of the purchasing end of the business of Fred T. Ley Company, general contractors, of

New York City. We use over one hundred thousand barrels of cement a year in the metropolitan district, and two or three hundred thousand barrels more outside. In New York, since I have been here, we have not bought from the manufacturers at all. We buy through dealers. We have not tried to buy directly from the manufacturers. Outside the metropolitan district we usually buy through our own cement supply company, located at Springfield, Massachusetts.

Whenever I see a cement salesman I ask him how the market is, and also keep in touch with it through our own company at Springfield. I do that personally so that I know about what the market is. The prices of the several cement manufacturers at the same time, the market price, is usually the same. What I was after primarily was the condition of the market, whether it was going up or down, what the trend was going to be.

Cross-examination by Mr. Stimson:

I am not prepared to say that there were not sundry differences between the prices of the different companies in 1920. Throughout [fol. 344] all my experience we have always insisted on a form of contract which gave us the right to the benefit of any drop in the market price during the life of the contract. I do not recall any case where when the market dropped we did not get the benefit of the drop. On the other hand, when the price of cement goes up, we hold the cement company to the price mentioned in the contract, and the companies have honored those contracts.

In specific job contracts, the amount of cement is very often overestimated. You play it safe and estimate high and that leaves a margin of cement usually which is not called for by the work. In these specific job contracts it is the understanding in the trade that the cement which is sold for those jobs is not to be diverted for other jobs. That is understood absolutely by all hands, both the contractor and the cement company. We never divert cement to other jobs without permission.

The dealer in New York City furnishes the storage and delivers the cement as you need it at the building. That is a great convenience in New York City.

[fol. 345] ROBERT A. BACHUR, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I have been connected with the George A. Fuller Company, of New York City, for eighteen years. I have been its purchasing agent for approximately three years. Prior to that I was in the purchasing department, and previous to that I was on the outside on construction. I have charge of purchases for all jobs under the jurisdiction of the New York office, that is, in the metropolitan district. In the metro-

politan district we use a minimum of fifty thousand and a maximum of about two hundred thousand barrels a year. In New York City we buy from the dealers. We do not buy any from the manufacturers. We have tried to purchase directly from the manufacturers. When we were figuring on the Industrial Alcohol Building in Long Island City about eighteen months ago, we wrote letters to the several manufacturers, but did not receive any quotations direct. That is the only time I recall trying to purchase directly from the manufacturer in New York City.

The sales agents of the manufacturers call to see me very often. I have talked prices with them along the lines of a general discussion of prices, but not asking for prices. That is, we might discuss the price in effect at that particular time. That is all. Materials Delivery Corporation is a subsidiary company of my company, the Fuller Company, entirely owned by us. These are letters between it and the Atlas Company.

Put in evidence Defendants' Exhibits D-150, D-151. Printed in Exhibit Book, p. —.

The Bamberger job in Newark was in my district. We received this letter from the Coplay Company while we were figuring the job. It is a direct offer.

Put in evidence Defendants' Exhibit D-152. Printed in Exhibit Book, p. —.

My company had the Commodore Hotel job in New York City. We did have a direct contract with the Knickerbocker Company for cement for that job. I remember in February, 1921, Mr. Cox and Mr. Leach, of the Phoenix Portland Cement Company, called at my office in order to talk about quoting us directly. I may have said that while I appreciated the visit and their offer that I couldn't buy brick from the dealer if I bought direct from the cement company. If I should buy cement direct from the cement company, the dealers wouldn't sell me other materials which I have to get from them. That is about the size of it.

[fol. 347] FRANK B. TALLEY, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

Since May, 1920 I have been engaged as purchasing agent for the Foundation Company, general contractors, located in New York City, and doing work there and throughout the United States. We use from fifty to three hundred thousand barrels a year east of Pittsburg and north of Washington. We buy through the dealers. We have never tried to buy directly from the manufacturer in New York City. I have talked with representatives of cement manufacturers about the price of cement. They have told me current market prices. I have had such conversations with representatives of

Atlas, Vulcanite, Lehigh, Pennsylvania, Giant, probably one or two more. In making their prices there was not any difference in their dock price at the same time or in the price of returned bags.

Outside New York City we buy through dealers. I never bought any other way. We get some quotations from the cement companies direct with reference to particular jobs, and their agents call upon us with reference to particular jobs. They do not name prices right away. They would name it probably in the afternoon if I asked for the quotation in the morning—or the following morning. In giving me quotations in that way on jobs outside the city there was some [fol. 348] difference in the prices offered me, very little. I believe in two or three cases the Whitehall Company quoted lower prices. The stated price of the bags was the same. Some would be to return bags to the dealer's warehouse, some would be to the mill. It was a little to our advantage to return them to the dealer's warehouse because we wouldn't have to prepay the freight. There is no difference in price whether we buy a large quantity or a small quantity of cement.

Our main work is compressed air work. It is a great advantage in that class of work to have quick setting cement. The Lehigh Valley cement, I understand, sets more quickly than the Hudson cement. We specify cement that is manufactured in the Lehigh Valley.

Cross-examination by Mr. Stimson :

In the part of New York that we work in, the downtown district, you cannot store any cement at all, so we are virtually dependent on the dealer's storehouse and he trucks to us from his storehouse as we require the cement. Some dealers make delivery days, nights and Sundays, whenever we want it. It is a very great advantage.

I remember that during the war there was a great shortage of bags. The junk dealers were buying up bags. I know when they were offered as much as 20 cents a piece for them, for bags that had been used. A good many of them disappeared from us, I know that.

In 1920 there were very unusual conditions in the trade, arising out of the railroad situation. The cement companies were doing their [fol. 349] best to make deliveries in spite of the embargo and other difficulties on the railroads. This is a letter from our company, expressing its satisfaction over the efforts of the cement people.

Put in evidence Defendants' Exhibit D-153. Printed in Exhibit Book, p. —.

[fol. 350] **RUDOLPH MEYER**, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler :

For about twelve years I have been the purchasing agent for Thompson-Starrett Company, engaged in building construction chiefly in the metropolitan district of New York. In New York City, we buy cement exclusively through dealers. We always wrote the

manufacturers and the dealers in connection with every decent size job, any large jobs we had. The manufacturers sent us quotations on the letterheads. I don't think their prices were cheaper than dealers' prices. We were not able to buy directly from the manufacturers. I talked with the salesmen of various manufacturers, Pennsylvania, Atlas, Hercules, Alpha. I asked them at different times whether they would sell direct and they said "No". I don't know as there was any particular reason given.

Cross-examination by Mr. Stimson:

This letter dated December 3, 1920, is a direct quotations to my company from the Coplay Company. This one dated April 5, 1921, is an offer from the Coplay Company to bid direct on the cement for the Bamberger Building, Newark, addressed to my company.

Put in evidence Defendants' Exhibits D-154 and D-155, printed in Exhibit Book, p. —.

[fol. 351] SOLOMON HOLZER, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I am in the advertising business now. I was an exporter and exported cement from 1918 to July, 1920. I bought from 500 barrels to as high as 10,000 barrels for shipment to South American countries, directly from the manufacturers. We bought most of our cement from the Edison Company and later on from the Coplay Company. We got prices from other companies. There were only five or six companies that were in a position to export cement, owing to the fact that for export it is packed in wooden barrels. They were Atlas, Alpha, Lehigh, Coplay and Edison. There was not any difference in the prices offered me by the several companies at the same time. The discount was always 5 cents a barrel for cash. We usually had until we got our bills of lading.

I tried to point out to several of the cement companies the advisability of giving the exporter a difference of 10 cents a barrel, the same as they allowed to dealers. My representations did not have any result.

I tried to purchase 2,500 barrels of cement from the domestic department of the Coplay Cement Company, for delivery in Akron, Ohio. The representative of the Coplay Company said it was not in their territory, or rather the question of territory came up whether they could ship into that territory, and he asked me to let the matter [fol. 352] rest until that afternoon, and he called me back and gave me the name of some lumber company and suggested my wiring to the purchaser in Akron to get in touch with that lumber company.

Cross-examination by Mr. Stimson:

[fol. 353] The price of cement changed every few months. There were times it was changing every week. We were not permitted by the Government to export during the war.

I knew that after the war, there was an attempt made by the Government to get the various industries to lower the price so as aid in the reconstruction of industries, but I do not know of the Peek Committee or whether it invited the cement manufacturers to meet with it.

By agreement a circular dated March 10, 1919, concerning the Industrial Board of the Department of Commerce, put in evidence. Defendants' Exhibit D-157; and a telegram dated February 29, 1919, from the War Service Committee, put in evidence. Defendants' Exhibit D-156. Printed in Exhibit Book, p. —.

I am testifying simply from recollection. My recollection of price is that they have fluctuated up and down many times in those three years. I can't say whether there was any change between the first of the year and the end of the year 1919, except one in April.

[fol. 354] It was in the Fall of 1920 that I asked the Coplay Company for cement for Akron, Ohio. The matter of price didn't come up at all. Cement was very scarce and hard to get at that time, without fault of the cement companies, on account of the car shortage.

[fol. 355] JAMES W. ALLEN, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

Since last December I have been employed by the Government as an auditing accountant. I have been an accountant about twenty-five years. I was Chief Examiner for the State Insurance Department of Tennessee seven or eight years, Chief Statistician in the Mining Department four years, State Auditor four years, and at one time Comptroller of the State.

I have prepared a number of tables from data obtained from the various forms of the Cement Manufacturers Protective Association.

Tables put in evidence. Government's Exhibits Nos. 373 to 404, inclusive, printed in Exhibit Book, p. —, with exception of Exhibits Nos. 373, 375, 396, 397, 401, 402, 403 and 404 not printed by consent.

The Government put in evidence reports of the Protective Association on forms 9, 10 and 11, Government's Exhibits Nos. 405 to 468, inclusive, Nos. 405 to 429 are printed in Exhibit Book, p. —. Nos. 430 to 467 are reports corresponding to No. 429 of other dates and are not printed by consent.

Cross-examination by Mr. Cox:

The Protective Association report used in preparing Exhibit 373 was a typewritten report which had a correction on it, changing

the Alpha production 2,000,000 barrels. I took the original figure [fol. 356] and changed the total shipments accordingly.

Corresponding printed report of Protective Association put in evidence. Defendants' Exhibit D-188, printed in Exhibit Book, p. —.

The corrected figure in the printed report would make the figures in Exhibit 373 inaccurate.

The figures as to capacity used in Exhibit 387 were obtained as follows: The Government asked counsel for the defendants to furnish capacities of the defendant mills. Defendants' counsel had only the estimated capacities for 1921. These were handed to the Government with the explanation that capacities for 1920 would have to be verified. It was found that in three instances, Atlas, Bath and Hercules, the capacities of 1921 were larger than in the preceding years, owing to the introduction of new apparatus and the corrected figures were given the Government. The figures are those of Mr. Mcade, an engineer.

I will see whether July, 1918 is not omitted from Exhibit 383, and whether the figure for Vulcanite in Exhibit 396 is correct, and whether the figure for Lehigh in the same exhibit is correct.

In Exhibits 403 and 404, column 2 enters into the computation of the other columns and the accuracy of the whole table depends upon the accuracy of column 2. Column 2 was arrived at by taking [fol. 357] the sum of the three columns 1, 2, and 3 of Exhibit 397. According to the figure in these exhibits, the amount of cement shipped on specific job contracts by the Allentown Company is larger than its total shipments of cement during the same period. To reconcile those figures, I developed column 8, in which I put the difference. The same in the case of Hercules. I had no information at all about those figures shown in column 8 from the records of the Association. That was simply a deduction to reconcile my figures. Turning to Exhibit No. 397, upon which the figures in Exhibits 403 and 404 depend, I will ascertain overnight whether every figure in columns 2 3 and 4 is not erroneous.

Redirect examination by Mr. Fowler:

I have prepared certain corrected tables.

Put in evidence Government's Exhibits Nos. 373A, 375A, 396A, 397A, 403A and 404A, printed in Exhibit Book, p. —.

Cross-examination by Mr. Cox:

In Exhibit 402, the figures in the third column seem to be wrong as a result of the typist having copied the wrong set of figures. In Exhibit 401, some of the items have been miscopied by the typewriter. In Exhibit 392, I have compared the production of one mill [fol. 358] with the capacity of two mills, in the case of Pennsylvania. The foot-note at the bottom was intended to correct the discrepancy. In Exhibit 377, the Coplay figure for 1918, given as \$3.37, should be 74.37. In Exhibit 399, the foot-note (b), which reads "incl. and," ought to read "and included are".

The figures for "commitments" and "unshipped balances" in these exhibits were taken from Form 11, which shows the commitments or unshipped balances on specific job contracts. I had no other figures relating to unshipped balances, no figures relating to current business.

I took the figures for "cancellations and decreases" from Form 9, which does not disclose whether the cancellations or decreases were made by the purchaser, or on account of being duplications or over-estimates, or what they were, but simply gave the cancellations and decreases.

I did not include the Tidewater plant in computing the percentage of capacities of mills not members of the Protective Association. It would have made a different percentage if I had included it.

[fol. 359] It is stipulated between counsel as follows: The Government will give the defendants a list of the letters it wants to use. The defendants will then furnish all the letters on the list which they have. The Government may then put them in, with the right of the defendants to introduce at the same time other letters relating to the same subject matter. Pursuant to the stipulation the following letters are put in evidence:

Letter January 9, 1913, from Mr. Mallory, president of Edison Company, to Mr. Morron, president of Atlas Company, Government's Exhibit No. 513. Printed in part in Exhibit Book, p. —.

Letter January 30, 1913, from Mr. Mallory, Chairman, Committee on Statistics, Eastern Cement Association, to Mr. Morron, Government's Exhibit No. 514. Printed in Exhibit Book, p. —.

Letter July 22, 1913, from Mr. Morron, of Atlas Company, to Mr. Harding, president of the Whitehall Company, Government's Exhibit No. 515. Printed in Exhibit Book, p. —.

[fol. 360] Letter June 21, 1913, Mr. Morron, of Atlas Company, to Mr. Holman, assistant to president of Atlas Company, Defendant's Exhibit D-166. Printed in Exhibit Book, p. —.

Letter August 7, 1913, from Mr. Morron to Mr. Holman, Defendants' Exhibit D-167. Printed in Exhibit Book, p. —.

Letter December 29, 1913 from Mr. Morron to Mr. George F. Baker, Jr., with enclosure, Government's Exhibit No. 516. Printed in Exhibit Book, p. —.

Letter February 16, 1914, from Mr. Morron of Atlas Company to E. M. Hagar, president of the Universal Portland Cement Company, of Chicago, Government's Exhibit No. 517. Printed in Exhibit Book, p. —.

Letter March 19, 1914, from Mr. Morron to Mr. Holman, Defendants' Exhibit D-168. Printed in Exhibit Book, p. —.

Letter April 3, 1914, from Mr. Morron to Mr. Holman, Defendants' Exhibit D-169. Printed in Exhibit Book, p. —.

Letter April 9, 1914, from Mr. Morron to Mr. Hagar, Government's Exhibit No. 518. Printed in Exhibit Book, p. —.

[fol. 361] Letter May 14, 1914, from Mr. Morron to Mr. Hagar, Government's Exhibit No. 519. Printed in Exhibit Book, p. —.

Letter May 19, 1914, from Mr. Morron to Mr. Fuller, managing

director of the Allentown Portland Cement Company, Government's Exhibit No. 520. Printed in Exhibit Book, p. —.

Letter October 24, 1914, from Mr. Morron to Mr. Holman, Defendants' Exhibit D-170. Printed in Exhibit Book, p. —.

Letter March 5, 1919, from Mr. Morron to B. F. Affleck, president Universal Company, at Chicago, Government's Exhibit No. 521. Printed in Exhibit Book, p. —.

Letter March 11, 1915, Mr. Affleck's reply to Mr. Morron, Government's Exhibit No. 522. Printed in Exhibit Book, p. —.

Memorandum March 30, 1915, from Mr. Morron, copies to certain employees of Atlas Company, Government's Exhibit No. 523. Printed in Exhibit Book, p. —.

Letter September 1, 1915, from Mr. Morron to Mr. MacFarland, Defendants' Exhibit D-171. Printed in Exhibit Book, p. —.

[fol. 362] Memorandum of letter, October 29, 1915, from Mr. Trexler, of Lehigh Company, to Mr. Morron, of Atlas Company's Government's Exhibit No. 524. Printed in Exhibit Book, p. —.

Letter October 29, 1915, from Mr. Trexler to Mr. MacFarland, Government's Exhibit No. 525. Printed in Exhibit Book, p. —.

Letter from Mr. MacFarland in reply, dated November 1, 1915, Government's Exhibit No. 526. Printed in Exhibit Book, p. —.

Letter November 13, 1915, from Bath Company to Mr. MacFarland, Government's Exhibit No. 527. Printed in Exhibit Book, p. —.

Reply of Bath Company, dated November 30, 1915, Defendants' Exhibit D-172. Printed in Exhibit Book, p. —.

Memorandum of letter, November 15, 1915, from Mr. Horner, of the Nazareth, to Mr. Morron, of the Atlas, Government's Exhibit No. 528. Printed in Exhibit Book, p. —.

Mr. Morron's reply, November 16, 1915, Government's Exhibit No. 529. Printed in Exhibit Book, p. —.

[fol. 363] Memorandum November 16, 1915, from Mr. Coogan of Alpha to Mr. MacFarland of Atlas, Government's Exhibit No. 530. Printed in Exhibit Book, p. —.

Memorandum November 19, 1915, Government's Exhibit No. 531. Printed in Exhibit Book, p. —.

Memorandum November 28, 1915, from Mr. Morron to Mr. MacFarland, Government's Exhibit No. 532. Printed in Exhibit Book, p. —.

Memorandum December 1, 1915, of Mr. MacFarland, Government's Exhibit No. 533. Printed in Exhibit Book, p. —.

Memorandum December 4, 1915, of telephone conversation between Mr. Morron of the Atlas and Mr. Mallory of the Edison's Government's Exhibit No. 534. Printed in Exhibit Book, p. —.

Letter January 17, 1916, from Mr. Morron to Mr. MacFarland, Defendants' Exhibit D-173. Printed in Exhibit Book, p. —.

Memorandum January 11, 1916, from Mr. C. A. Kimball, sales manager of the Atlas, to Mr. MacFarland, assistant to the president of the Atlas, with enclosure, Government's Exhibit No. 535. Printed in Exhibit Book, p. —.

[fol. 364] Letter January 24, 1916, from Mr. Morron to Mr. Mac-

Farland, Defendants' Exhibit D-174. Printed in Exhibit Book, p. —.

Letter January 17, 1916, from Mr. Mallory to Mr. Morron, Government's Exhibit No. 536. Printed in Exhibit Book, p. —.

Memorandum February 1, 1916, from Mr. MacFarland to Mr. Miner of the Atlas Company, Government's Exhibit No. 537. Printed in Exhibit Book, p. —. It is agreed that Mr. Kimball and Mr. McKenna, mentioned therein, were employees of the Atlas Company at the time.

Letter March 9, 1916, from the Bath, Dexter, Nazareth, Penn-Allen, Pennsylvania and Phoenix Companies to Mr. Morron, Government's Exhibit No. 538. Printed in Exhibit Book, p. —.

Mr. Morron's reply, March 20, 1916, Government's Exhibit No. 539. Printed in Exhibit Book, p. —.

Letter May 3, 1916, from Mr. Moyer, of Vulcanite Company, to Mr. MacFarland, of Atlas Company, Government's Exhibit No. 540. Printed in Exhibit Book, p. —.

Letter May 20, 1916, from Mr. Affleck, of Universal Company, to Mr. Brown, of Alpha Company, and others, Government's Exhibit No. 541. Printed in Exhibit Book, p. —.

[fol. 365] Mr. Morron's reply to Mr. Affleck's letter, May 22, 1916, Government's Exhibit No. 542. Printed in Exhibit Book, p. —.

Letter November 15, 1916, from Mr. Morron to Mr. MacFarland, Defendants' Exhibit D-175. Printed in Exhibit Book, p. —.

Letter July 23, 1918, from Mr. McConnell, the sales head of the Atlas Company to Messrs. Clark and Conkling, two of the Boston salesmen of the Atlas Company, Defendants' Exhibit D-176. Printed in Exhibit Book, p. —.

Letter August 5, 1918, from Mr. McConnell to Mr. Heft, an Atlas salesman, Defendants' Exhibit D-177. Printed in Exhibit Book, p. —.

Letter November 19, 1919, from Mr. McConnell to Mr. Hicks and Mr. Conkling, Boston salesmen of Atlas Company, Defendants' Exhibit D-178. Printed in Exhibit Book, p. —.

Letter from Mr. McKenna, Philadelphia manager of Atlas Company to Mr. McConnell, Defendants' Exhibit D-179. Printed in Exhibit Book, p. —.

[fol. 366] Letter January 21, 1920 from Mr. McConnell to Mr. Long, metropolitan district salesman of Atlas Company, Defendants' Exhibit D-180. Printed in Exhibit Book, p. —. It is agreed that Northampton is the Atlas mill point in the Lehigh district.

Letter October 22, 1919, from Mr. McConnell to Mr. McKenna, of Atlas Company, Defendants' Exhibit D-181. Printed in Exhibit Book, p. —.

Letter October 3, 1919, from Mr. McConnell to Mr. Jaynes, in charge of northern New Jersey territory for Atlas Company, Defendants' Exhibit D-182. Printed in Exhibit Book, p. —.

Letter October 3, 1919, from Mr. McConnell to Mr. Long and Mr. Boeye, of Atlas Company in New York City, Defendants' Exhibit D-183. Printed in Exhibit Book, p. —.

Letter October 3, 1919, from Mr. McConnell to Mr. Spencer, Atlas salesman in New York State, Defendants' Exhibit D-184. Printed in Exhibit Book, p. —.

Letter October 3, 1919, from Mr. McConnell to Mr. Conkling, Atlas sales manager in Boston, Defendants' Exhibit D-185. Printed in Exhibit Book, p. —.

[fol. 367] Letter October 22, 1919, from Mr. McConnell to Mr. Morron, Defendants' Exhibit D-186. Printed in Exhibit Book, p. —.

Reply, October 24, 1919, from Mr. Morron to Mr. McConnell, Defendants' Exhibit D-187. Printed in Exhibit Book, p. —.

[fol. 368] The defendants state, without objection, that it appears from the figures of the United States Geological Survey, Department of the Interior, being Defendants' Exhibit D-256 for identification, also Defendants' Exhibit 255 for identification, that the prices of cement in the United States were as follows:

1906	\$1.13
1907	1.11
1908 .....	.85
1909 .....	.81
1910 .....	.89

[fol. 369] EDWARD A. KEELER, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination by Mr. Fowler:

For twenty-five years I have been connected with Peter Keeler Building Company, general contractor and builder, at Albany, New York. We use a good deal of cement, in our best years from twenty-five thousand to thirty thousand barrels. Sometimes we buy directly from the manufacturers, other times through dealers, and have been doing that ever since I have been in business.

Up to three or four years ago, when we were estimating a piece of construction work, we would send a circular letter to possibly a half dozen selected dealers of cement companies, requesting a price for the cement. We received quotations from Glens Falls Company, the Helderberg, the Knickerbocker Company, the Edison Company, the Atlas Company, and Alsen's American Portland Cement Works. I do not recall any difference in the quotations up to three or four years ago, or in the price of returned bags, or in the discount allowed.

Within the last three or four years it has been our custom simply to telephone or write some one cement company, usually the one nearest the operation, requesting a quotation or asking the prevailing price for cement for such and such an operation. Our inquiry would be before the contract was let. When we secured a [fol. 370] contract we would be called on by the agents of the

various cement companies to solicit cement orders. They would quote the price of cement to us. Recently there have been some slight differences in prices delivered to the operation, but no differences in prices delivered f. o. b. cars. These cement manufacturers quoted us cement to be delivered on the job, but they would quote it through a local agent or a salesman or a material dealer. I recall one case at Troy in the fall of 1919. The prices themselves were divided into two parts. There was no difference in the price quoted f. o. b. Troy. There was a difference in the prices quoted f. o. b. at the building. The maximum difference, as I remember it, was 5 cents a barrel. It was about 2 cents a barrel under the next best price. The company was the Helderberg Portland Cement Company.

In the fall of 1919 I had a talk with, I think, Mr. Sweeney, in charge of sales in the New York office of the Edison Company, and told him that because of the services he had rendered to us on several of our jobs, I was going to give him the cement order for the operation at Letchworth Village, but I didn't propose to enter into a contract which provided for my standing any possible increase in freight. I was willing to sign a contract for cement on the basis of the quotation made, but that the company ought to take the risk of increase in freight rates. He considered the matter and agreed to accept the contract on that basis. He said it was a most unusual procedure, or rather that it was not usual to take that clause out of the contract.

Later we had the construction of the power plant for the Utica City Hospital, Marcy, New York. There were several bids submitted on the job, but there was no difference in the prices quoted. I told Mr. Coleman, salesman of the Glens Falls Company that I [fol. 371] was ready to place the order for the cement with him because of my friendly connection with the Glens Falls Company, but that I did not propose to take a contract where I stood the chance of having to pay more if freight rates went up. I said to him if he would take that clause out of the contract I would place the order with him. He said he did not feel that he could take that clause out of the contract. I said other cement companies are doing it and I don't see why you can't. He said he would think it over. Later he said he would accept the contract with that clause stricken out. When I told Mr. Coleman other companies were disregarding the freight increase clause, I referred to my agreement with the Edison Company.

In 1915, I tried to buy a large quantity of cement from the Edison Company and conversed with Mr. Wetzler. The Edison Company had closed a contract with us for the cement requirements for the Albany City Sewage Disposal Plant, and I said to Mr. Wetzler that I would like to purchase a sufficient quantity of cement so that I might use that particular job as a distributing station from which I could use cement on other operations in the city of Albany. I wanted to know if they would agree to such an arrangement. He asked what my object was. I said it was for the purpose of having

cement for my ordinary small building operations in the city of Albany at the car-load price that I was paying on this particular operation. I was informed that that could not be openly permitted.

Early in 1915 I had a talk with Mr. Parks, salesman of the Helderberg Company, in the Albany district. I asked him if the Helderberg would sell me cement for delivery at the storage shed on this operation for the disposal plant for the city of Albany without [fol. 372] question as to where it was used, and he replied that they would have to exercise some supervision over where that cement might be used.

In 1917 we built the Fort Edward St. Joseph's Roman Catholic Church, about five miles from the mills of the Glens Falls Company. We had prices from either companies and purchased from the Glens Falls Company. I recall no difference in the prices, excepting that the Glens Falls Company delivered the cement at the site of the work by truck.

Cross-examination by Mr. Stimson:

In both cases where I was trying to get the company to take the chance on any increase in the freight rate, the company acquiesced, saying, however, that it was an unusual procedure. I was a contractor, not dealing in building supplies. Those two companies were selling cement to dealers in builders' supplies in Albany at the time. I haven't purchased any cement in quantities in eighteen months.

[fol. 373] CHARLES D. TEDROW, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I am Division Chief Rate Clerk, Interstate Commerce Commission. I have been with the Commission about fourteen years and occupied my present position about three years. I have with me the freight tariffs at the railroads operating in the Lehigh Valley district.

Put in evidence Government's Exhibits Nos. 261 to 316, both inclusive; not printed by consent.

Those are the tariffs for the roads serving the Lehigh Valley district, for the month of October, 1918, and cover the State of New Jersey.

[fol. 374] I have calculated the actual freight rates between certain points from the tariffs in evidence and compared the results with the rates given in the New Jersey freight rate book of the Protective Association.

From Alpha to Kennedy the Lehigh Valley Railroad rate would be 19.57 cents per barrel. The amount given in the freight rate book is 27 cents. That makes a difference of 7.43 cents.

From Northampton and other cement producing points in Pennsylvania to Cape May, New Jersey, the Central of New Jersey rate

is 56.753 cents per barrel. The rate given in the freight rate book is 57 cents, a difference of two mills and forty-seven hundredths.

From New Village to Change Water the D. L. & W. rate is 23.484 cents. The freight rate book gives 33 cents, a difference of 9.516 cents.

From New Village to Chester the D. L. & W. tariff gives 33.269 cents per barrel. The freight rate book gives 37 cents, a difference of 3.73 cents.

From New Village to Hampton the D. L. & W. tariff gives 23.484 cents. The freight rate book gives 33 cents, a difference of 9.516 cents per barrel.

From Nazareth and other cement producing points in Pennsylvania to Clyde, New Jersey, the D. L. & W. tariff gives 39.140 cents per barrel. The freight rate book gives 43 cents, a difference of 3.860 cents.

[fol. 375] From Alpha to Jutland the Lehigh Valley tariff gives 23.484 cents. The freight rate book gives 35 cents, a difference of 11.516 cents.

From New Village to Stewartsville the D. L. & W. tariff gives 19.57 cents. The freight rate book gives 33 cents, a difference of 13.43 cents.

From Bath and other cement producing points in Pennsylvania to Atlantic City the D. L. & W. tariff gives 52.839 cents. The freight rate book gives 53 cents, a difference of .161 cents, a little over one and a half mills.

From New Village to Passaic the D. L. & W. tariff gives 35.226 cents. The freight rate book gives 37 cents, a difference of 1.774 cents.

From New Village to Ackerson the D. L. & W. tariff gives 35.226 cents. The freight rate book gives 39 cents, a difference of 3.774 cents.

From New Village to Andover the D. L. & W. tariff gives 33.269 cents. The freight rate book gives 35 cents, a difference of 1.31 cents.

From New Village to Aphenia the D. L. & W. tariff gives 35.226 cents. The freight rate book gives 37 cents, a difference of 1.774 cents.

From New Village to Augusta the D. L. & W. tariff gives 35.226 cents. The freight rate book, 39 cents, a difference of 3.774 cents.

From New Village to Avenal the D. L. & W. tariff gives 35.226 cents. The freight rate book, 37 cents, a difference of 1.774 cents. [fol. 376] From New Village to Basking Ridge the D. L. & W. tariff gives 39.14 cents. The freight rate book gives 41 cents, a difference of 1.86 cents.

From New Village to Belle Mead the D. L. & W. tariff gives 39.14 cents. The freight rate book gives 41 cents, a difference of 1.86 cents.

From Alpha to Bloomsbury the Lehigh Valley tariff gives 19.57 cents. The freight rate book gives 27 cents, a difference of 7.43 cents.

From New Village to Broadway the D. L. & W. tariff gives 19.57 cents. The freight rate book gives 33 cents, a difference of 14.43 cents.

From New Village to Franklin the D. L. & W. tariff gives 35.226 cents. The freight rate book gives 39 cents, a difference of 3.774 cents.

From New Village to Glen Moore the D. L. & W. tariff gives 39.14. The freight rate book gives 41 cents, a difference of 1.86.

From Alpha to Grandin the Lehigh Valley tariff gives 23.484 cents. The freight rate book gives 35 cents, a difference of 11.516 cents.

From New Village to Horton the D. L. & W. tariff gives 33.269 cents. The freight rate book gives 37 cents, a difference of 3.731 cents.

From Alpha to Hughesville the Lehigh Valley tariff gives 23.484 cents. The freight rate book gives 31 cents, a difference of 7.516 cents.

From New Village to Kenvil the D. L. & W. tariff gives 33.269 cents. The freight rate book gives 37 cents, a difference of 3.731 cents.

[fol. 377] It is agreed that the Edison plant is located at New Village.

There is no shipping point known as Lehigh Valley.

The railroad tariffs show changes in cents per ton of 10 cents. The lowest rate published is \$1.00 per ton. The next rate is \$1.10 per ton. There are no rates between \$1.00 and \$1.10 per ton. The highest rate to a point in New Jersey in these tariffs is \$3.50 per ton. It goes from a dollar to \$3.50. I have translated the rate per ton into cents per barrel and added the war tax.

[fol. 378] Cross-examination by Mr. Stimson:

The 25 points concerning which I have testified were not selected by the Government and handed to me. Another party and myself simply took a point here and there in the tariff which appeared on the list. It would be almost impossible to go through the entire tariff because there are over 1,000 points.

On June 25, 1918, freight rates were advanced 40 cents a ton, and on August 26, 1920 the rates were advanced 40 per cent per ton. The railroad tariffs that I have produced give the rates per hundred pounds or per ton of 2,000 pounds. In the freight rate book, they are translated into the rate per barrel. When a rate per hundred pounds or per ton of 2,000 pounds is translated into a barrel rate of 380 pounds, the weight of a barrel, fractions are necessarily created in almost every case. There are no rates of a fraction of a cent in the tariff books of the railroads which I have produced here.

The method by which the freight rate book of the Association has been made up in general is simply this: Where they have a fraction of a cent resulting from translating the rate per ton into the rate per barrel, they give the next higher number of cents, if the fraction is over 5 mills and the next lower number in cents where the fraction is under 5 mills. For instance, in the first hundred rates in the

freight rate book, the fraction has been subtracted in 51 cases and raised to a cent in 49 cases.

This method which was followed in making up the freight rate book by the cement companies, is precisely the same method that has been followed by the United States Government and the railroad companies in making up their tariffs, where they had fractions of a cent arising in any of the increases in the rates. This special supplement [fol. 379] plement to tariffs issued by the Central Railroad Company of New Jersey on the increase in freight rates effective June 25, 1918, was issued by the Director General of the Railroads of the United States when Mr. McAdoo was in charge of the railroads of the United States. This clause was carried out and represented the way the railroad tariffs were changed and figured. It reads:

"Effective June 25, 1918. All rates then in effect, named in tariffs enumerated herein and in prior supplements thereto, as indicated, to each of which tariffs this is a special supplement, are hereby increased two cents per hundred pounds, or 40 cents per net ton of 2,000 pounds.

"Rule A. Rates per 100 pounds or per package.

"Fractions of less than $\frac{1}{4}$ or .25 omit.

"Fractions of $\frac{1}{4}$ or .25, or greater, but less than $\frac{3}{4}$, or .75, state as one-half (1.2) or as fifty one-hundredths (.50).

"Fractions of $\frac{3}{4}$, or .75, or greater, increase to the next whole figure."

This was in regard to rates per 100 pounds. When the cement companies were applying their rule to the barrel, they were applying it to a package nearly four times greater in weight, that is nearly 400 pounds. The clause quoted authorized the disregarding of $\frac{1}{4}$ of a cent per hundred pounds. The cement companies disregarded 1.2 of a cent per 400 pounds. The rule read was applied to all roads under Federal control.

[fol. 380] In my experience down with the Interstate Commerce Commission, I have heard of what is known as a rate blanket. I know what that is, both a rate blanket of origin and a rate blanket of destination. A great many tariffs will name rates from the same group in the same territory. That is what is known as a blanket rate, and the rates will be all the same or a differential over or under, whichever the case might be. A group of towns or stations of origin will have the same rate to other places around the country. If they are in the same group over which the blanket is spread, there will be no difference in the freight rate that is charged by station A and the freight rate as charged by station B, to the same destination. Very often that blanket spreads over a good many miles. It is quite common. It is usual wherever there is a big producing district with a lot of towns a little way off from each other, but engaged in the same industry, all of those towns are given the same rates to their markets, regardless of the distance. There is such a blanket rate in the anthracite coal region. There is a rate blanket in the brick-producing region. The rate blanket around

the Lehigh Valley cement district has been up before the Interstate Commerce Commission in a number of cases. In this case of Vulcanite Portland Cement Company against Central Railroad of New Jersey, dated July 18, 1917, they speak of a rate blanket around the Lehigh Valley. The territory included within that blanket has always been known as the Lehigh Valley, so far as I know. The statement of the Interstate Commerce Commission in that case [fol. 381] "What is known as the Lehigh cement district embraces parts of the counties of Berks, Lehigh and Northampton in the eastern part of the State of Pennsylvania, and a few points in northwestern New Jersey. The carriers serving this district have embraced the numerous cement producing points in this district in a rate blanket. The rates from all points therein being generally the same to any given destination," I would not say was in error. The rates are not the same to all the given destinations in New Jersey. I have not examined the tariffs as to New York, or New England, or Pennsylvania, or anywhere outside of New Jersey. I was asked to pick out New Jersey alone. I couldn't say whether it is a fact that Northampton has been taken as the station which is the key station for the rates which are given to all in the Lehigh Valley district. My attention is called to the decision of the Interstate Commerce Commission, which says, "The Lehigh District is situated mainly in eastern Pennsylvania, but includes a mill or two in western New Jersey. * * * Most of the 22 mills which comprise the district are situated within 20 miles of Allentown, Pennsylvania. Northampton is in about the center of the group, and by consent of all parties all distances are computed from Northampton." But I couldn't say from my examination of tariffs here whether that statement is true.

Blanket rates are usually rates that are issued to cover the same commodity for business reasons, competitive reasons, various other reasons. They have come about for competitive reasons. A mill that is over here to the east of the group has a shorter haul to its big market in New York, taking New York for example, than [fol. 382] a mill over here on the west side of the group, and for a while that eastern mill has a big advantage freightwise over the western mill. Then after a little while, it has been my experience that the western mill makes application to the Interstate Commerce Commission and asks to have the rate from its point equalized with the rate from the other point, so that it can go into New York as cheap as its competitor. That is the way the rate blanket generally comes up. I am not prepared to say positively that the Lehigh Valley rate blanket came up on account of the keen competition, but that is my opinion.

Out of all of the 25 points mentioned on my direct examination 17 had to do with New Village as a point of origin. 5 of the remaining 8 were from Alpha. Of the remaining 3, one was from Nantuxet, one from Bath and one from Northampton. There are over 900 points in the New Jersey freight rate book.

New Village and Alpha are both on the New Jersey side of the

Delaware River. The bulk of the other stations are over in Pennsylvania.

[fol. 383] I couldn't say whether after these tariffs of September, 1918, and in September, 1920, these differences between New Village and Alpha, on the one hand, and the other towns were wiped out by new tariffs. I was not asked to look up any more than this one month in 1918.

From Alpha to Kennedy is two miles. The population of Kennedy, according to Rand & McNally's Atlas, is zero. The rate given in the cement companies' freight rate book is the correct rate from Northampton to Kennedy. It is the lowest rate by either road, assuming that Navarro and Northampton are the same place as the tariffs of the two roads seem to indicate.

I could not say whether four of the other stations mentioned by me, Clyde, Grandin, Horton, Hughesville, are not stations where there is no population at all, according to Rand & McNally's Atlas. I do not know whether the population of Jutland is more than eighty people, mentioned in the Atlas.

Stewartsville is 2.7 miles from New Village.

Broadway is one mile and a half from Alpha.

Bloomsburg is 5 miles from Alpha.

Changewater is 8 miles.

As to Passaic, by the new tariffs issued by the railroads in September, 1921, the rate from Navarro to Passaic has been brought within the Lehigh Valley blanket.

[fol. 384] The rates which I mentioned on direct examination this morning were all of them cases where there was an exception to the blanket Lehigh Valley rate on the particular road I mentioned, as from New Village to some little point in New Jersey, and by the changes in rates in September, 1921, these exceptional rates mentioned on my direct examination have been equalized with the blanket rate so that now the rates from New Village to the stations mentioned are the same as the rates to those stations from Northampton or Navarro. In other words, the rates from New Village have been brought under the blanket. If Northampton is the place that was taken for the purpose of making up these cement freight rate books, then the rates to those places that I mentioned on direct examination have been equalized with the rate in the books.

The rate from New Village to Newark figured from the railroad tariffs is 31.312 cents per barrel. The rate in the cement companies' freight rate book is 31 cents. On all cement going from New Village, or the Edison Company, to Newark, the cement companies have given the consumer the benefit of three and one-tenth mills on their freight. On general principles, more cement is likely to travel to Newark than to any place I mentioned on my direct examination.

The rate to Jersey City figured from the railroad tariffs is 27.39 cents per barrel. The rate in the cement companies' freight rate book is 27 cents per barrel. There the buyer gets the benefit of [fol. 385] three mills and nine-tenths of a mill per barrel. Jersey City is the largest receiving point for cement in New Jersey. A great

deal of cement for the metropolitan district of New York goes to Jersey City.

To New Brunswick the rate figured from the railroad tariffs is 39.14 cents a barrel. The cement manufacturers freight rate book gives 39 cents. There the public is given the benefit of one mill and four-tenths of a mill per barrel. The rate to Hoboken from the railroad tariffs is 27.39. The freight rate book gives 27. There the public get the benefit of 3.9 mills per barrel. The rate from all the points in the Lehigh Valley district shown in the tariffs here is the same to Hoboken, Jersey City, Trenton and the other large cities mentioned. The rate to Trenton as figured from the railroad tariffs is 37.18 cents. The cement manufacturers freight rate book gives 37 cents. This gives the public the benefit of 1.8 mills per barrel. In the case of Camden, the rate from the tariffs is 39.14 cents. The cement manufacturers freight rate book gives 39 cents. In the case of these six large New Jersey cities, Newark, Jersey City, New Brunswick, Trenton, Hoboken and Camden, the difference between the freight rate book and the rate figured from the tariffs arises from disregarding the fraction of a cent that comes from calculating a rate per one hundred pounds into a rate per barrel, and the allowance has been made in favor of the consumer.

As to the difference in the rate to Clyde which I mentioned on my direct examination, that discrepancy was changed by a tariff which [fol. 386] was issued on October 31, 1918, effective November 4, 1918. The book of the cement manufacturers is dated October, 1918, and is correct according to that tariff issued October 31, 1918.

Redirect examination by Mr. Fowler:

Supplement to railroad tariff put in evidence, Government's Exhibit No. 630. Not printed by consent.

We found a rate to Newark from Alpha, Egypt, Armrod, published in Lehigh Valley L. C. C. 5766, of \$1.50 per ton, which would be 29.355 cents per barrel. The rate in the cement manufacturers' freight rate book is 31 cents. That is the correct rate from Northampton to Newark.

Out of the first eighty-five stations in the New Jersey book, forty-one worked out at the Northampton rate give a rate per barrel a fraction less than the rate published in the freight rate book of the Cement Association. Of these forty-one, in fourteen instances there are lower rates from other cement producing points than from Northampton. These are: From New Village to Ackerson there is a rate which figures 3.774 cents less a barrel. From New Village to Andover there is a rate which figures 1.731 cents less per barrel. From New Village to Allendale there is a rate which figures 3.731 cents less per barrel. From New Village to Athenia there is a rate making a difference of 1.774 cents per barrel, and there are substantially similar differences ranging from 0.204 to 3.774 cents per barrel found in rates from New Village to Augusta, Bath to Avalon, New [fol. 387] Village to Avenal, New Village to Babbitt, New Village to

Basking Ridge, New Village to Beach Glen, Egypt to Bellmar, New Village to Berkeley Heights, and New Village to Bernardsville.

Recross-examination by Mr. Stimson:

Q. You also do not mean, today, to make any change in your testimony as to what I asked you about with reference to the rate blanket, do you? I asked you yesterday whether, after refreshing your recollection with that (handing witness paper), whether it was not true that the railroads serving the Lehigh Valley district had embraced the numerous cement producing points in this district in a rate blanket, the rates from all points therein being generally the same to any given destination?

A. That would be hard to say; I couldn't say positively about that.

Q. Is there any doubt about that at all?

A. I certainly have, to nearby points.

Q. I ask you generally whether the rates from the Lehigh Valley district are the same to all points of destination. I don't mean that you can't find, as you have pointed out, some few nearby points to which the rate blanket had not in 1918, been applied, but speaking generally, isn't that true?

A. I would say yes, except to nearby points, and what I mean by nearby points, it might be two hundred, three hundred, perhaps four hundred miles before they would be given a rate blanket.

Q. The other day you said there were nearly a thousand stations in New Jersey?

A. Nine hundred and something.

[fol. 388] Q. How many are there in New York?

A. I couldn't tell you.

Q. More than in New Jersey, aren't they?

A. Oh, yes.

Q. You didn't bring anything except the New Jersey tariffs with you?

A. That is all.

Q. You can't tell me how many stations there are in Pennsylvania?

A. No, sir.

Q. More than New Jersey, aren't there?

A. Oh, yes.

Q. And there are a great many more in New England than in New Jersey?

A. Oh, yes.

Q. And in Maryland there are a great many, and in Delaware there are a great many; all through this district, I mean, that is served by the Lehigh Valley, isn't that all true?

A. A great many points, yes, sir.

Q. And what you say now is, that you think there are a few nearby exceptions that were not covered by this blanket in 1918?

A. No doubt about it.

[fol. 389] WALTER LEWIS, called as a witness on behalf of the Government, being first duly sworn, testified as follows:—

Direct examination by Mr. Fowler:

I am employed by the Department of Justice and have been connected with it for twelve years as an accountant. I have prepared a statement based on the reports Form 10 of the Protective Association. I used the reports for the years 1919, 1920 and up to March 1, 1921, and checked a total of 928 transactions in those reports. I took Form 10 and selected transactions at random. Those transactions represented shipments to 591 towns in various states. I deducted from the delivered price, reported on Form 10, the freight as set out in the freight rate books, and deducted from that the bag price applying at the time the contract was made, and arrived at the mill base price at Lehigh Valley, Universal, Hudson or Fordwick. If this mill base price coincided with the mill base prices as furnished me to begin with I assumed the mill base prices given me to have been correct. I found about more than ninety-five per cent of the mill base prices of these transactions as figured by me corresponded with the mill base prices furnished me.

Tabulation made by the witness put in evidence, Government's Exhibit No. 543. Printed in Exhibit Book, p. —.

[fol. 390] I found some transactions included in the ninety-five per cent which were apparently based on a mill price and a bag price different from the mill price and bag price which were reported to be effective as of the date the contract was made. In some cases the mill base price and the bag price was used which applied to an earlier period and in some few cases the mill base price and the bag price was used which applied to a little later period.

There are 56 of those transactions. The variances run from one day to five months, 16 of the 56 anticipated and 40 reverted back. I found on transactions or contracts entered into during the latter part, or the fall of 1920, and the first three months of 1921, a number of instances which did not figure out and in which there were differences. I did not take them all. I took on my schedule 27 instances. They were from October, November and December, 1920.

[fol. 391] One of the basing points is Fordwick, Virginia. There is a Lehigh mill there. Lehigh owns also one of the mills in the Lehigh Valley district. I can turn to a Norfolk shipment on the report Form 10. February 1st, 1919, the mill base price at Fordwick was \$1.90. The mill base price at Lehigh at that time was \$1.90. The freight rate from Fordwick to Norfolk was 33 cents; from Lehigh it was 53 cents. The bag price was \$1 a barrel. The price at the point of delivery was \$3.23. They took the lowest freight rate price. The freight rate to Roanoke was 43 cents. On June 16, 1919, the delivered price at Norfolk was \$2.73 and at Roanoke \$2.83. That shipment to Norfolk was from the Lehigh Portland Cement Company. I don't know whether that came from

the Lehigh Valley or from Fordwick. I have a Norfolk shipment January 30, 1919 from Atlas. It was \$3.23 delivered. Atlas had no mill at Fordwick. I have one to Charlottesville from Alpha. The rate to Charlottesville from Fordwick is 31 cents and from the Lehigh Valley it is 68 cents. I have a shipment on June 25, 1919 from the Lehigh Company to Charlottesville. The price at Charlottesville was \$2.71. I don't know whether it came from Fordwick or the Lehigh Valley. The difference in the freight rate was 37 cents, but there was a difference of 5 cents in the base at that time. I have one shipment from Alpha to Charlottesville, on April 28, 1920. [fol. 392] The delivered price was \$3.63, but it was based on the Lehigh Valley base. I found they quit the Fordwick rate about the same time. I couldn't fix the time. I would say in the latter part of 1919 or the early part of 1920.

No cross-examination.

[fol. 393] Stipulation with reference to certain license agreements and the agreements put in evidence. Government's Exhibits Nos. 544 to 550, inclusive; printed in Exhibit Book, p. —.

Letter September 12, 1912, from Mr. Morron of the Atlas Company to Mr. Beach of the Pennsylvania Company, put in evidence. Government's Exhibit No. 551, printed in Exhibit Book, p. —.

Mr. Beach's reply, September 16, 1921, put in evidence. Government's Exhibit No. 552, printed in Exhibit Book, p. —.

Stipulation concerning minutes of Eastern Cement Association put in evidence. Government's Exhibit No. 553, printed in Exhibit Book, p. —.

Minutes put in evidence. Government's Exhibit No. 554, printed in part in Exhibit Book, p. —.

Letter January 30, 1913, from Mr. Mallory to Mr. Morron, put in evidence. Government's Exhibit No. 555, not printed by consent. [fol. 394] Letter December 14, 1912, from Mr. Mallory to Mr. Meyer, Manager of Sales of Edison Company, put in evidence. Government's Exhibit No. 556, printed in Exhibit Book, p. —.

Letter February 10, 1913, from Mr. Mallory to Mr. Meyer, put in evidence. Government's Exhibit No. 557, printed in part in Exhibit Book, p. —.

Letter March 5, 1913, from Mr. Mallory to Mr. Meyer, put in evidence. Government's Exhibit No. 558, printed in Exhibit Book, p. —.

Letter March 20, 1913, from Mr. Meyer to Mr. Mallory, put in evidence. Government's Exhibit No. 559, printed in Exhibit Book, p. —.

Quotations dated on different days from December 6, 1912 to January 20, 1913, to Amsterdam Building Company from 11 cement companies, put in evidence. Government's Exhibits Nos. 560 to 570, inclusive, printed in part in Exhibit Book, p. —, except No. 565 which is not printed by consent.

[fol. 395] RUSSELL HARDY, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct examination by Mr. Fowler:

I am employed by the Government. I have a set of forms of quotations and forms of contracts in current use by the defendant corporations, which were obtained by the defendants' counsel from the defendant corporation and handed the Government.

Put in evidence Government's Exhibits Nos. 571 to 589, inclusive, printed in part in Exhibit Book, p. —.

I have prepared sheets upon which I have taken from these several forms of contracts the clauses which relate to the same matter, and put them side by side.

Put in evidence Government's Exhibit No. 590, printed in Exhibit Book, p. —.

I have a set of quotations for specific job contracts of the defendant companies, except Penn-Allen.

Put in evidence Government's Exhibits Nos. 591 to 609, inclusive, printed in Exhibit Book, p. —, except No. 601 (being the same as No. 199) and No. 607 (being the same as No. 586) which are not printed by consent.

[fol. 396] I have a set of forms of quotations for current business, as distinguished from specific job quotations except Pennsylvania.

Put in evidence Government's Exhibits Nos. 610 to 627, inclusive, printed in Exhibit Book, p. —.

I have prepared a chart with reference to the quotations for current business, to bring together the comparable provisions.

Put in evidence Government's Exhibit No. 628, printed in Exhibit Book, p. —.

Additional form of quotation for current business of Alpha Company put in evidence Government's Exhibit No. 629, printed in Exhibit Book, p. —.

Cross-examination by Mr. Porter:

The sheets I prepared, Government's Exhibit No. 590, does not contain all the clauses of the contracts. I omitted some clauses. The Penn-Allen uses the specific job quotation also for the specific job contract. I had that form. I put it among the contracts and not with the quotations. As to the Pennsylvania quotation for current [fol. 397] business, I do not know whether the Pennsylvania Company uses a printed form, but writes a special letter in each case.

It is agreed that the Pennsylvania Company does not use such a printed form.

I am a Special Assistant to the Attorney General. Exhibit No. 620 is the quotation for current business of the Knickerbocker Company. The only provision as to quantity is that the quotation is made in cloth sacks, carload lots, delivered f. o. b. Hartford, Connecticut. I judged that ambiguous and interpreted the ambiguity as limiting the quotation to one carload, and so stated in my chart, which purports to state to what extent these quotations comply with the recommendations of the Trade Practice Reports of the National Association, one of which was that such quotations be limited to one carload.

This quotation from the Knickerbocker Company does not contain anything as to the time limit on acceptance. I stated in my chart that the Knickerbocker quotation is limited for immediate acceptance. Among a large number of quotations on my desk, I think there is one of the Knickerbocker Company which will verify my chart. My chart appears to be in error as to this quotation of the Knickerbocker Company.

My chart refers to a recommendation in the trade practice report that the cement company should expressly exempt itself from liability for loss or damage in transit. The X in my chart means that the Glens Falls contract does not contain any specific provision making the buyer responsible for shortage or damage. The Glens [fol. 398] Falls quotation, Exhibit No. 618, is f. o. b. station named. The only provision in the contract is as to how a claim for loss or damage must be proved with the company.

The provision of the Alpha specific job contract, Exhibit No. 573, that "any decline in cement company's market price during the life of this agreement shall apply to shipments under this agreement made after date of reduction," is not in my form.

[fol. 399] The Government put in evidence the following:

Set of Form 12 of the Protective Association commencing with the month of February, 1916, and running monthly to and including December, 1918. Government's Exhibits Nos. 631 to 665. Nos. 631, 632 and 633 printed in Exhibit Book, p. —. Nos. 634 to 665, inclusive, not printed by consent.

Statements showing the production in barrels by the defendant companies in the years 1913 to 1921, inclusive. Government's Exhibits Nos. 666 to 674, printed in Exhibit Book, p. —.

Table showing dates when changes were made effective by each defendant company in the base price used by it in figuring most of its quotations, Lehigh Valley. Government's Exhibit No. 675, printed in Exhibit Book, p. —.

Table showing dates when changes were made effective by each company in the base price used by it in figuring most of its quotations, Hudson River. Government's Exhibit No. 676, printed in Exhibit Book, p. —.

[fol. 400] MARY B. PHALEN, recalled by the Government.

Redirect examination by Mr. Fowler:

The mimeographed sheet listing annual productive capacity of 24 mills, January 1st, 1917, is one of some copies of that I found lying around among old stuff. I could not say whether it was issued or distributed among the membership. It was furnished from our office to Mr. Mitchell, Special Assistant to the Attorney General.

Put in evidence Government's Exhibit No. 677, duplicate of Government's Exhibit No. —, printed in Exhibit Book, p. —.

Statement showing average cost of bags 1916 to 1921, inclusive, put in evidence. Government's Exhibit No. 678, printed in Exhibit Book, p. —.

Statement showing sale price of bags 1919 to 1921, inclusive, put in evidence. Government's Exhibit No. 679, printed in Exhibit Book, p. —.

The following letters put in evidence:

Letter April 2, 1919, C. N. Apgar, Traffic Manager of Alpha Company, to J. J. Collister, Traffic Manager of Atlas Company, Government's Exhibit No. 680, printed in Exhibit Book, p. —.

[fol. 401] Letter April 25, 1919, from Secretary of Association to Castalia Portland Cement Company. Government's Exhibit No. 681, printed in Exhibit Book, p. —.

Letter September 4, 1918, from Mr. Gaines of Protective Association to Mr. Coogan of Alpha Company. Government's Exhibit No. 682, printed in Exhibit Book, p. —.

Letter September 5, 1918, from Mr. Coogan to Mr. Gaines. Government's Exhibit No. 683, printed in Exhibit Book, p. —.

Letter September 5, 1918, from W. F. Clark, Traffic Manager of Lehigh Company, to Mr. Gaines of Protective Association. Government's Exhibit No. 684, printed in Exhibit Book, p. —.

Letter June 1, 1915, from Security Company to Lehigh Company. Government's Exhibit No. 685, printed in Exhibit Book, p. —.

Reply thereto, dated June 2, 1915. Government's Exhibit No. 686, printed in Exhibit Book, p. —.

[fol. 402] Memorandum March 1, 1916, from Mr. Kimball of Atlas Company to Mr. Miner of Atlas Company. Government's Exhibit No. 687, printed in Exhibit Book, p. —.

Memorandum March 16, 1916, from Mr. Young of Atlas Company to Mr. Kimball of Atlas Company. Government's Exhibit No. 688, printed in Exhibit Book, p. —.

71 notices of corrections of errors in Rate Book referred to in Government's Exhibit No. 688, put in evidence. Defendants' Exhibit D-190. Only specimen. Printed by consent.

Letter from Mr. Coogan of Alpha Company to Protective Association. Government's Exhibit No. 689, printed in Exhibit Book, p. —.

Circular letter of Protective Association, April 5, 1918. Government's Exhibit No. 690, printed in Exhibit Book, p. —.

Letter August 23, 1920, Mr. Coogan of Alpha Company to Mr.

Collister, Traffic Manager of Atlas Company. Government's Exhibit No. 691, printed in Exhibit Book, p. —.

[fol. 403] Circular Letter of Protective Association, August 25, 1920. Government's Exhibit No. 692, printed in part in Exhibit Book, p. —.

Letter August 27, 1920, from Mr. Floring of Knickerbocker Company to certain salesmen of Knickerbocker Company. Government's Exhibit No. 693, printed in Exhibit Book, p. —.

Letter of August 29, 1920, from Mr. Floring of Knickerbocker Company to Mr. Stinson, Local Manager of Knickerbocker Company. Government's Exhibit No. 694, printed in Exhibit Book, p. —.

Reply thereto. Government's Exhibit No. 695, printed in Exhibit Book, p. —.

Letter March 18, 1921, from Mr. Dutton of Bath Company to its salesmen at Schenectady, New York. Government's Exhibit No. 696, printed in Exhibit Book, p. —.

Letter February 25, 1913, from Mr. Apgar, Traffic Manager of the Alpha Company, to Security Company. Government's Exhibit No. 697, printed in Exhibit Book, p. —.

[fol. 404] Letter December 20, 1920, from Mr. Apgar to the Protective Association. Government's Exhibit No. 698, printed in Exhibit Book, p. —.

Letter December 10, 1920, from Mr. Stinson, Local Manager of Knickerbocker Company, to Knickerbocker Company. Government's Exhibit No. 699, printed in Exhibit Book, p. —.

Reply December 13, 1920, of Knickerbocker Company to Mr. Stinson. Government's Exhibit No. 700, printed in Exhibit Book, p. —.

Reply December 14, 1920, from Mr. Stinson to Mr. Floring. Defendants' Exhibit D-191, printed in Exhibit Book, p. —.

Reply December 15, 1920, from Mr. Floring to Mr. Stinson. Defendants' Exhibit D-192, printed in Exhibit Book, p. —.

Letter June 16, 1917, from Mr. Coogan of Alpha Company to Secretary of Protective Association. Government's Exhibit No. 701, printed in Exhibit Book, p. —.

[fol. 405] Letter August 25, 1917, from Secretary of Protective Association to Secretary of National Association. Government's Exhibit No. 702, printed in Exhibit Book, p. —.

Reply thereto, August 27, 1917. Government's Exhibit No. 703, printed in Exhibit Book, p. —.

Letter November 6, 1916, from Mr. MacFarland of the Atlas Company to Mr. Gowan of the Lehigh Company. Government's Exhibit No. 704, printed in Exhibit Book, p. —.

Letter December 5, 1916, from Secretary of Protective Association to members. Government's Exhibit No. 705, printed in Exhibit Book, p. —.

Letter January 22, 1916, from Mr. W. D. Lober to members of Protective Association. Government's Exhibit No. 706, printed in Exhibit Book, p. —.

Letter January 27, 1919, from Mr. Naylor of Knickerbocker

Company to Mr. Gaines of Protective Association. Government's Exhibit No. 707, printed in Exhibit Book, p. —.

[fol. 406] Reply thereto January 28, 1919. Government's Exhibit No. 708, printed in Exhibit Book, p. —.

Reply dated January 31, 1919. Government's Exhibit No. 709, printed in Exhibit Book, p. —.

Letter January 31, 1919, from Mr. Naylor of Knickerbocker Company to Mr. Gaines of Protective Association. Government's Exhibit No. 710, printed in Exhibit Book, p. —.

Letter March 17, 1919, from Mr. Hilles of Dexter Company to Protective Association. Government's Exhibit No. 711, printed in Exhibit Book, p. —.

Letter March 30, 1916, from Secretary of Protective Association to Security Company. Government's Exhibit No. 712, printed in Exhibit Book, p. —.

Letter April 20, 1916, from Sales Manager of Security Company to W. L. Sperry of Cumberland Hydraulic Cement & Manufacturing Company, of Cumberland, Maryland. Government's Exhibit No. 713, printed in Exhibit Book, p. —.

[fol. 407] Reply dated April 21, 1916, from Mr. Sperry of Cumberland Company to Mr. Barbour of Security Company. Government's Exhibit No. 714, printed in Exhibit Book, p. —.

Letter April 22, 1916, from Mr. Barbour to Mr. Sperry. Government's Exhibit No. 715, printed in Exhibit Book, p. —.

Letter July 19, 1917, from Secretary of Protective Association to auditor of Knickerbocker Company. Government's Exhibit No. 716, printed in Exhibit Book, p. —.

Letter August 20, 1918, from Mr. Porter of Security Company to Protective Association. Government's Exhibit No. 717, printed in Exhibit Book, p. —.

[fol. 408] Letter April 1, 1915, from Mr. Cover of Security Company to Mr. B. T. Scott, president of the Tidewater Portland Cement Company, Baltimore, Maryland. Government's Exhibit No. 718, printed in Exhibit Book, p. —.

Letter April 7, 1915, from the Tidewater Company to Mr. Cover, of the Security Company, Government's Exhibit No. 719, printed in Exhibit Book, p. —.

Letter April 14, 1916, from Mr. Griffith, president of Protective Association, to secretary of Protective Association, Government's Exhibit No. 720, printed in Exhibit Book, p. —.

Letter April 21, 1916, from Mr. Griffith to secretary of Protective Association, Government's Exhibit No. 721, printed in Exhibit Book, p. —.

Letter January 28, 1919, from Mr. Gaines of Protective Association to Mr. Naylor of Knickerbocker Company, Defendants' Exhibit D-193, printed in Exhibit Book, p. —.

Letter April 24, 1916, from secretary of Protective Association to B. L. Swett, eastern sales manager of Lehigh Company, Government's Exhibit No. 722, printed in Exhibit Book, p. —.

[fol. 409] Letter April 25, 1916, from Mr. Swett to secretary of

Protective Association, Government's Exhibit No. 723, printed in Exhibit Book, p. —.

Letter April 26, 1916, from secretary of Protective Association to Mr. Swett, Government's Exhibit No. 724, printed in Exhibit Book, p. —.

Letter April 27, 1916, from Mr. Swett to secretary of Protective Association, Government's Exhibit No. 725, printed in Exhibit Book, p. —.

Letter May 9, 1916, from R. E. Griffith, vice-president of Giant Company, to secretary of Protective Association, Government's Exhibit No. 726, printed in Exhibit Book, p. —.

Letter May 10, 1916, from secretary of Protective Association to Mr. Griffith of the Giant Company, Government's Exhibit No. 727, printed in Exhibit Book, p. —.

Letter May 26, 1916, from Mr. Swett of Lehigh Company to Mr. Alker, secretary of the Pennsylvania Company, Government's Exhibit No. 728, printed in Exhibit Book, p. —.

[fol. 410] Reply May 26, 1916, from Mr. Alker to Mr. Swett, Government's Exhibit No. 729, printed in Exhibit Book, p. —.

Letter July 12, 1916, from Nazareth Company to secretary of Protective Association, Government's Exhibit No. 730, printed in Exhibit Book, p. —.

Reply July 19, 1916, from secretary of Protective Association to Nazareth Company, Government's Exhibit No. 731, printed in Exhibit Book, p. —.

Letter September 22, 1919, from Mr. C. H. Cox of the Phoenix Company to Mr. Frostholm, a Phoenix salesman, Defendants' Exhibit D-194, printed in Exhibit Book, p. —.

Letter November 23, 1920, from Mr. C. H. Cox to Mr. Frostholm, both of Phoenix Company, Defendants' Exhibit D-195, printed in Exhibit Book, p. —.

Telegram October 22, 1920, from Mr. Bradlee, Phoenix salesman, Brookline, Mass., to Phoenix Company, Defendants' Exhibit D-196, printed in Exhibit Book, p. —.

[fol. 411] Letter October 22, 1920, from Mr. Bradlee to Phoenix Company, Defendants' Exhibit D-197, printed in Exhibit Book, p. —.

Letter May 27, 1921, from C. H. Cox of Phoenix Company to Mr. Bradlee, Phoenix salesman, Defendants' Exhibit D-198, printed in Exhibit Book, p. —.

Letter December 27, 1917, from Mr. G. H. Clukas, Boston sales agent of Pennsylvania Company, to the Pennsylvania Company, Defendants' Exhibit D-199, printed in Exhibit Book, p. —.

Reply December 28, 1917, from Pennsylvania Company to Mr. Clukas, Defendants' Exhibit D-200, printed in Exhibit Book, p. —.

Letter July 11, 1918, from Mr. Bickel, salesman of Vulcanite Company, to Vulcanite Company, Defendants' Exhibit D-201, printed in Exhibit Book, p. —.

Letter from Mr. C. H. Cox, of Phoenix Company, to Mr. Leach,

Phœnix salesman, Hartford, Conn., Defendants' Exhibit D-202, printed in Exhibit Book, p. —.

[fol. 412] Letter May 7, 1917, from Mr. W. D. Lober, vice-president Vulcanite Company to Mr. D. H. MacFarland, assistant to president of Atlas Company, Government's Exhibit No. 732, printed in Exhibit Book, p. —.

Memorandum of Mr. Twamley of Bath Company to Mr. MacFarland of Atlas Company, Government's Exhibit No. 733, printed in Exhibit Book, p. —.

Enclosure with Government's Exhibit No. 733, dated May 3, 1917, from Mr. Dodge of American Metal Works, Government's Exhibit No. 734, printed in Exhibit Book, p. —.

Letter May 10, 1917, from secretary of Protective Association to Mr. Twamley of Bath Company, Government's Exhibit No. 735, printed in Exhibit Book, p. —.

Letter May 10, 1917, from secretary of Protective Association to Mr. MacFarland of Atlas Company, Government's Exhibit No. 736, printed in Exhibit Book, p. —.

[fol. 413] Letter November 16, 1917, from Mr. Swett of Lehigh Company to Mr. Gaines of Protective Association, Government's Exhibit No. 737, printed in Exhibit Book, p. —.

Letter February 4, 1919, from Mr. Stapleton of the Tidewater Company to Mr. Griffith of the Giant Company, Government's Exhibit No. 738, printed in Exhibit Book, p. —.

Reply thereto, dated May 5, 1919, Government's Exhibit No. 739, printed in Exhibit Book, p. —.

Letter May 29, 1919, from Mr. Hilles of the Dexter Company to Mr. Griffith of the Giant Company, Government's Exhibit No. 740, printed in Exhibit Book, p. —.

Letter June 11, 1919, from Mr. Griffith of the Giant Company to Mr. Coogan of the Alpha Company, Government's Exhibit No. 741, printed in Exhibit Book, p. —.

Letter January 19, 1921, from Mr. John B. Lober, president Vulcanite Company, to Mr. G. H. Brown, president Alpha Company, Government's Exhibit No. 742, printed in Exhibit Book, p. —.

[fol. 414] Letter April 20, 1915, from Mr. Paulson, traffic manager of the Lehigh Company, to Security Company, Government's Exhibit No. 742, printed in Exhibit Book, p. —.

Letter May 21, 1915, from Security Company to Mr. Coogan, of Alpha Company, Government's Exhibit No. 744, printed in Exhibit Book, p. —.

Letter June 16, 1918, from Security Company to Mr. Coogan of Alpha Company, Government's Exhibit No. 745, printed in Exhibit Book, p. —.

Letter July 1, 1918, from Mr. Swett of Lehigh Company to Mr. Gaines of Protective Association, Government's Exhibit No. 746, printed in Exhibit Book, p. —.

Reply July 12, 1918, from Mr. Gaines to Mr. Swett, Government's Exhibit No. 747, printed in Exhibit Book, p. —.

Letter July 12, 1915, from Mr. Morron of Atlas Company to Mr.

Gowan of the Lehigh Company, Chicago, Government's Exhibit No. 748, printed in Exhibit Book, p. —.

[fol. 415] Reply July 13, 1915, from Mr. Gowan to Mr. Morron, Defendants' Exhibit D-203, printed in Exhibit Book, p. —.

Letter July 15, 1915, from Mr. Morron to Mr. Gowan, Defendants' Exhibit D-204, printed in Exhibit Book, p. —.

Letter July 16, 1915, from Mr. Gowan to Mr. Morron, Defendants' Exhibit D-205, printed in Exhibit Book, p. —.

Letter July 29, 1915, from Mr. Gowan to Mr. Morron, Defendants' Exhibit D-206, printed in Exhibit Book, p. —. Mr. John B. Lober was then president of the National Association, Mr. Hagar was president of the Universal Company, Mr. Beck was an employee of the Universal Company who was being employed by the National Association for promotion work.

Memorandum of letter written for Mr. Morron by Mr. Young of Lehigh Company, Defendants' Exhibit D-207, printed in Exhibit Book, p. —.

Letter August 11, 1915, from Mr. Morron of Atlas Company to Mr. Young of Lehigh Company, Defendants' Exhibit D-208, printed in Exhibit Book, p. —.

[fol. 416] Letter August 12, 1915, from Mr. Young to Mr. Morron, Defendants' Exhibit D-209, printed in Exhibit Book, p. —.

Letter August 13, 1915, from Mr. Morron to Mr. Young, Defendants' Exhibit D-210, printed in Exhibit Book, p. —.

Resolution of Executive Committee of National Association, September 14, 1915, Defendants' Exhibit D-211, printed in Exhibit Book, p. —.

Resolution of December meeting of National Association, Defendants' Exhibit D-212, printed in Exhibit Book, p. —.

Letter October 30, 1915, from Mr. Coogan of Alpha Company to Mr. Beach of Pennsylvania Company, Government's Exhibit No. 749, printed in Exhibit Book, p. —.

Memorandum from Mr. Coogan to Mr. Beach, Government's Exhibit No. 750, printed in Exhibit Book, p. —.

Letter November 1, 1915, Mr. Beach's reply to memorandum, Government's Exhibit No. 751, printed in Exhibit Book, p. —.

[fol. 417] Announcement of Lehigh Company, December 6, 1916, Government's Exhibit No. 752, printed in Exhibit Book, p. —.

Announcement of Alpha Company, December 7, 1916, Government's Exhibit No. 753, printed in Exhibit Book, p. —.

Letter December 7, 1916, from Atlas Company to J. P. Hall, Inc., Jersey City, N. J., Government's Exhibit No. 754, printed in Exhibit Book, p. —.

Letter February 6, 1917, from Mr. Mallory of Edison Company to secretary of Protective Association, Government's Exhibit No. 755, printed in Exhibit Book, p. —.

Letter February 7, 1917, from secretary of Protective Association to Mr. Mallory of Edison Company, Government's Exhibit No. 756, printed in Exhibit Book, p. —.

Letter August 6, 1917, from Bath Company to Protective Asso-

ciation, Government's Exhibit No. 757, printed in Exhibit Book, p. —.

[fol. 418] Letter October 5, 1918, from Mr. C. H. Cox, general sales manager of Phoenix Company, to Protective Association, Government's Exhibit No. 758, printed in Exhibit Book, p. —.

Letter July 16, 1919, from Mr. George F. Bayle, Jr., second vice-president Glens Falls Company to Protective Association, Government's Exhibit No. 759, printed in Exhibit Book, p. —.

Letter October 14, 1919, from Mr. Bayle of Glens Falls Company to Protective Association, Government's Exhibit No. 760, printed in Exhibit Book, p. —.

Letter September 8, 1919, from Mr. Brobston of Dexter Company to Miss Phalen, secretary of Protective Association, Government's Exhibit No. 761, printed in Exhibit Book, p. —.

Letter December 30, 1919, from Mr. Hilles of Dexter Company to Mr. Swett of Lehigh Company, Government's Exhibit No. 762, printed in Exhibit Book, p. —.

Letter May 29, 1920, from Mr. Warner of Security Company to Mr. Kind of Hercules Company, Government's Exhibit No. 763, printed in Exhibit Book, p. —.

[fol. 419] Letter June 5, 1920, from Mr. Kind to Mr. Warner, Government's Exhibit No. 764, printed in Exhibit Book, p. —.

Letter June 7, 1920, from Mr. Warner to Mr. Kind, Government's Exhibit No. 765, printed in Exhibit Book, p. —.

Letter June 16, 1920, from Mr. Kind to Mr. Warner, Government's Exhibit No. 766, printed in Exhibit Book, p. —.

Letter from Mr. Warner's office to Mr. Kind, Government's Exhibit No. 767, printed in Exhibit Book, p. —.

Letter June 23, 1920, from Mr. Warner to Mr. Kind, Government's Exhibit No. 768, printed in Exhibit Book, p. —.

Letter October 19, 1917, from Mr. Holman of Atlas Company to Mr. Archibald Cox, counsel, Defendants' Exhibit D-213, printed in Exhibit Book, p. —.

Letter October 24, 1917, from Mr. Cox to Mr. Holman, Defendants' Exhibit D-214, printed in Exhibit Book, p. —.

Letter October 27, 1917, from Mr. Cox to Mr. Lober, president of Protective Association, Government's Exhibit No. 769, printed in Exhibit Book, p. —.

[fol. 420] Circular letter, October 31, 1917, from Mr. Lober, president of Protective Association, to members, Government's Exhibit No. 770, printed in Exhibit Book, p. —.

Enclosure therewith, dated October 27, 1917, Government's Exhibit No. 771, printed in Exhibit Book, p. —.

Letter November 1, 1917, from Mr. Bayle of Glens Falls Company to Mr. Lober, president Protective Association, Government's Exhibit No. 772, printed in Exhibit Book, p. —.

Letter November 1, 1917, from Mr. Beach of Pennsylvania Company to Mr. Lober, president Protective Association, Government's Exhibit No. 773, printed in Exhibit Book, p. —.

Letter November 1, 1917, from Mr. Erdell, president Penn-Allen

Company, to Mr. Lober, president Protective Association, Government's Exhibit No. 774, printed in Exhibit Book, p. —.

Letter November 1, 1917, from Mr. Coogan of Alpha Company to Mr. Lober, president of Association, Government's Exhibit No. 775, printed in Exhibit Book, p. —.

[fol. 421] Letter November 1, 1917, from Mr. Goode of Hercules Company to Mr. Lober, president of Association, Government's Exhibit No. 776, printed in Exhibit Book, p. —.

Letter November 1, 1917, from Mr. Horner of Nazareth Company to Mr. Lober, president of Association, Government's Exhibit No. 777, printed in Exhibit Book, p. —.

Letter November 1, 1917, from Mr. Twamley of Bath Company to Mr. Lober, president Protective Association, Government's Exhibit No. 778, printed in Exhibit Book, p. —.

Letter November 1, 1918, from Mr. Ward, sales manager of Knickerbocker Company, to Mr. Lober, president of Protective Association, Government's Exhibit No. 779, printed in Exhibit Book, p. —.

Letter November 1, 1917, from Mr. Swett, assistant to the president of the Edison Company, to Mr. Lober, president Protective Association, Government's Exhibit No. 780, printed in Exhibit Book, p. —.

Letter November 1, 1918, from Mr. Smith, sales manager of Lawrence Company to Mr. Lober, president Protective Association, Government's Exhibit No. 781, printed in Exhibit Book, p. —.

[fol. 422] Letter November 2, 1917, from Mr. Mallory, president Edison Company, to Mr. Lober, president Protective Association, Government's Exhibit No. 782, printed in Exhibit Book, p. —.

Letter November 2, 1917, from Mr. Dutton, general sales manager of Coplay Company, to Mr. Lober, president Protective Association, Government's Exhibit No. 783, printed in Exhibit Book, p. —.

Letter November 2, 1917, from Mr. Cope of Allentown Company to Mr. Lober, president Protective Association, Government's Exhibit No. 784, printed in Exhibit Book, p. —.

Letter November 2, 1917, from Mr. Griffith of Giant Company to Mr. Lober, president Protective Association, Government's Exhibit No. 785, printed in Exhibit Book, p. —.

Letter November 3, 1917, from Mr. Hilles, manager of sales of Dexter Company, to Mr. Lober, president Association, Government's Exhibit No. 786, printed in Exhibit Book, p. —.

[fol. 423] Letter November 5, 1917, from Mr. Swett, eastern sales manager of Lehigh Company to Mr. Lober, president Protective Association, Government's Exhibit No. 787, printed in Exhibit Book, p. —.

Letter October 18, 1917, from Mr. Gaines, vice-president Protective Association to Mr. Oberman, a checker employed by the Association, Government's Exhibit No. 788, printed in Exhibit Book, p. —.

Letter November 5, 1917, from Mr. Gaines of Protective Association to Harry I. Norton, employed as checker by Association, Government's Exhibit No. 789, printed in Exhibit Book, p. —.

Letter November 27, 1917, from Mr. Dutton, of Coplay Company, to Mr. Lober, president Protective Association, Government's Exhibit No. 790, printed in Exhibit Book, p. —.

Letter December 3, 1917, from Mr. Lober, president Protective Association, to Mr. Dutton, Government's Exhibit No. 791, printed in Exhibit Book, p. —.

[fol. 424] Letter December 3, 1917, from Mr. Lober, president Protective Association to secretary of the Association, Government's Exhibit No. 792, printed in Exhibit Book, p. —.

Circular letter February 14, 1918, to Chief executives of members signed by committee, Government's Exhibit No. 793, printed in Exhibit Book, p. —.

Letter February 19, 1918, from Mr. Beach, president Pennsylvania Company, to Mr. W. G. Dutton, Protective Association, Government's Exhibit No. 794, printed in Exhibit Book, p. —.

Letter February 23, 1918, from Mr. Dutton to Mr. Beach, Government's Exhibit No. 795, printed in Exhibit Book, p. —.

Letter February 20, 1918, from Mr. Daniels, president Knickerbocker Company, to Mr. Dutton, president Protective Association, Government's Exhibit No. 796, printed in Exhibit Book, p. —.

[fol. 425] Letter February 23, 1918, from Mr. Dutton to Mr. Daniels, Government's Exhibit No. 797, printed in Exhibit Book, p. —.

Letter February 25, 1918, from Mr. L. C. Morton, general manager Phoenix Company to Mr. Dutton, president Protective Association, Government's Exhibit No. 798, printed in Exhibit Book, p. —.

Letter February 26, 1918, Mr. Dutton to Mr. Morton, Government's Exhibit No. 799, printed in Exhibit Book, p. —.

Letter March 21, 1919, from Mr. Gaines of Protective Association to Mr. Wright, New York State Builders' Supply Association, Rochester, New York, Government's Exhibit No. 800, printed in Exhibit Book, p. —.

Report January 5, 1916, from Mr. C. S. Swallow, salesman of Knickerbocker Company to Knickerbocker Company, Defendants' Exhibit D-215, printed in Exhibit Book, p. —.

Letter February 14, 1921, from Knickerbocker Company to Mr. Stinson, Knickerbocker salesman, Defendants' Exhibit D-216, printed in Exhibit Book, p. —.

[fol. 426] Letter March 3, 1921, from Knickerbocker Company to Mr. Stinson, Defendants' Exhibit D-217, printed in Exhibit Book, p. —.

Letter April 25, 1921 from president of Knickerbocker Company to Mr. White, a salesman of Knickerbocker Company, Defendants' Exhibit D-218, printed in Exhibit Book, p. —.

Letter April 25, 1921, from president of Knickerbocker Company to Mr. Abbott, a Knickerbocker salesman, Defendants' Exhibit D-219, printed in Exhibit Book, p. —.

Letter June 8, 1921, from president of Knickerbocker Company to Mr. White, a Knickerbocker salesman, Defendants' Exhibit D-220, printed in Exhibit Book, p. —.

Letter October 20, 1916, from Mr. MacFarland of Atlas Company to Mr. Kimball, sales manager of Atlas Company, Defendants' Exhibit D-24, printed in Exhibit Book, p. —.

Letter October 20, 1916, from Mr. Morrow of Atlas Company to Mr. MacFarland of Atlas Company, Defendants' Exhibit D-25, printed in Exhibit Book, p. —.

[fol. 427] Letter October 20, 1916, from Mr. Kimball of Atlas Company to Mr. MacFarland of Atlas Company, Defendants' Exhibit D-26, printed in Exhibit Book, p. —.

Letter May 16, 1916, from Lawrence Company to its salesman, Defendants' Exhibit D-221, printed in Exhibit Book, p. —.

Letter May 17, 1916, from Philadelphia sales agent of Lawrence Company to sales manager of Lawrence Company of New York City, Defendants' Exhibit D-222, printed in Exhibit Book, p. —.

Letter June 23, 1916, from eastern sales agent of Lawrence Company to Mr. Maloney, a salesman of Lawrence Company at Boston, Defendants' Exhibit D-223, printed in Exhibit Book, p. —.

Letter October 16, 1916, from eastern sales agent of Lawrence Company to Mr. Maloney, Lawrence salesman at Boston, D-224, printed in Exhibit Book, p. —.

Letter February 1, 1917, from Lawrence Company to Mr. Maloney, its salesman at Boston, Defendants' Exhibit D-225, printed in Exhibit Book, p. —.

[fol. 428] Letter April 19, 1919, from Lawrence Company to Construction Supply Company, Richmond, Virginia, Defendants' Exhibit D-226, printed in Exhibit Book, p. —.

Telegram April 18, 1919, from Construction Supply Company to Lawrence Company, Defendants' Exhibit D-227, printed in Exhibit Book, p. —.

Letter July 6, 1916, from president of Bath Company to sales agent of Bath Company, Defendants' Exhibit D-228, printed in Exhibit Book, p. —.

Letter February 11, 1916, from Mr. G. M. Clukas, Pennsylvania salesman, to Pennsylvania Company, Defendants' Exhibit D-229, printed in Exhibit Book, p. —.

Letter August 15, 1916, from Mr. Clukas to Pennsylvania Company, Defendants' Exhibit D-230, printed in Exhibit Book, p. —.

Letter August 16, 1916, from Pennsylvania Company to Mr. Clukas, Defendants' Exhibit D-231, printed in Exhibit Book, p. —.

[fol. 429] Letter November 4, 1920, from sales manager of Pennsylvania Company to E. P. Alker and Mr. H. B. Brewster, both of Pennsylvania Company, Defendants' Exhibit D-232, printed in Exhibit Book, p. —.

Letter November 10, 1920, from Mr. Brewster of Pennsylvania Company to Pennsylvania Company, Defendants' Exhibit D-233, printed in Exhibit Book, p. —.

Letter November 11, 1920, from Mr. E. P. Alker, of Pennsylvania Company, to Mr. Brewster, Defendants' Exhibit D-234, printed in Exhibit Book, p. —.

Letter April 1, 1921, from Samuel H. French & Co. to sales man-

ager of Hercules Company, Defendants' Exhibit D-235, printed in Exhibit Book, p. —.

Letter July 12, 1921, from Samuel H. French & Co. to sales manager of Hercules Company, Defendants' Exhibit D-236, printed in Exhibit Book, p. —.

Letter July 13, 1921 from sales manager of Hercules Company to Samuel H. French & Co., Defendants' Exhibit D-237, printed in Exhibit Book, p. —.

[fol. 430] Letter June 4, 1921 from Mr. P. L. Hayden, Edison salesman, to B. W. Kessel, in charge of Edison Philadelphia office, Defendants' Exhibit D-238, printed in Exhibit Book, p. —.

Letter June 6, 1921, from Mr. Kellel to Mr. Hayden, Defendants' Exhibit D-239, printed in Exhibit Book, p. —.

Interdepartmental correspondence of Atlas Company, April 7, 1919, Mr. Holman to Mr. MacFarland, Defendants' Exhibit D-240, printed in Exhibit Book, p. —.

Instructions April 10, 1919, from Mr. Morron, president of Atlas Company, to Mr. MacFarland of Atlas Company, Defendants' Exhibit D-241, printed in Exhibit Book, p. —.

Letter of inquiry from H. Wales Lines Company, Meriden, Conn., to Dexter Company, December 27, 1920, Defendants' Exhibit D-242, not printed by consent.

Letter December 29, 1920, from Dexter Company to H. Wales Lines Company, Defendants' Exhibit D-243, printed in Exhibit Book, p. —.

[fol. 431] Letter July 10, 1916, from Mr. Ramsay to Mr. Fehnel, both of Nazareth Company, Defendants' Exhibit D-244, printed in Exhibit Book, p. —.

Letter July 11, 1916, from Mr. Fehnel to Mr. Ramsay, Defendants' Exhibit D-245, printed in Exhibit Book, p. —.

Letter November 28, 1917, from Mr. Ramsay to Mr. Horner, both of Nazareth Company, Defendants' Exhibit D-246, printed in Exhibit Book, p. —.

Letter October 19, 1917, from Mr. Ramsay to Mr. Horner, both of Nazareth Company, Defendants' Exhibit D-247, printed in Exhibit Book, p. —.

Letter October 21, 1920, from Mr. Ramsay to Mr. Horner, Defendants' Exhibit D-248, printed in Exhibit Book, p. —.

Letter, Mr. C. H. Cox, sales manager Phoenix Company, to Mr. Bradlee, Phoenix salesman, at Brookline, Mass., Defendants' Exhibit D-249, printed in Exhibit Book, p. —.

Letter June 19, 1920, from Mr. Burch of Atlas Company to Mr. MacFarland and Mr. Lewis, of Atlas Company, Defendants' Exhibit D-250, printed in Exhibit Book, p. —.

[fol. 432] Reports of decisions of Interstate Commerce Commission put in in lieu of other evidence without objection as follows:

No. 9012, Atlas Portland Cement Company vs. Boston & Maine Railroad, in 44 I. C. C. 416, Defendants' Exhibit D-251. Not printed by consent.

No. 5314, Allentown Portland Cement Company vs. Philadelphia Reading Railway Company, 27 I. C. C. 448, Defendants' Exhibit 252, printed in Exhibit Book, p. —.

No. 9095, Vulcanite Portland Cement Company, et al., vs. Central Railroad of New Jersey, et al., 46 I. C. C. 483, Defendants' Exhibit 253, not printed by consent.

No. 9544, Allentown Portland Cement Company, et al., vs. Baltimore & Ohio Railroad Company, et al., 49 I. C. C. 502, Defendants' Exhibit D-254, not printed by consent.

[L. 433]

The Defendants' Case

HOLGER STRUCKMANN, called as a witness on behalf of the Defendants, being duly sworn, testified as follows:

Direct examination by Mr. Porter:

I am a civil engineer and have been familiar with the manufacture of cement by the different companies in the United States since 1902. The processes practiced by the different companies in the eastern part of the United States are very similar. I have prepared a chart illustrating the main steps in the process.

Chart put in evidence. Defendants' Exhibit D-257, not printed by consent.

The process of making Portland cement is divided into four stages. The first stage is the quarrying, crushing and storing of the raw materials. The second stage consists of the drying, grinding and blending of the raw material. The third consists of the burning and cooling of the clinker. The fourth is the grinding of the clinker with the adding of a small percentage of gypsum and the grinding of this mixture, which is the finished Portland cement.

The raw materials, as a rule, consist of limestone and shale or sandstone and clay, or in some localities there is a natural mixture of the two materials, which is found particularly in the Lehigh Valley. The quarrying comprises drilling holes, loading the holes with dynamite, setting off the dynamite charge, which breaks the material into big piles, which are loaded up by steam shovels into carriers and transported to the crusher. The crushing equipment is very heavy; the average kind and size of crusher weighs 500,000 pounds. The material is delivered from the carriers to the crusher and the crushing head revolves slowly, in addition gyrating, and reduces the material to pieces about 5 inches in diameter. It is delivered by an elevator to a feed bin and from there to a secondary crusher, which reduces it down to about 2 inches in diameter. It is again elevated, delivered to another feed bin, and then delivered to another stage crusher, which reduces it to pieces about half an inch down to dust. The clay or shale goes through the same process and is delivered to a separate compartment.

The chemist, as the material is being delivered to these compartments, takes samples and analyzes. He gives the operator his instructions as to how to blend the two materials; and this is the first mixing of the two raw materials. The material is tapped out into little electrically operated cars that run in a tunnel under the material storage compartments. The chemist may direct them to take one-half of the car from one spout, one-half from another, and add the clay and shale into the same car, discharging the raw materials into an elevator which takes them up to a feed bin. That completes the first stage of the process.

[fol. 435] The second stage begins by the drying process. The drying takes place in a cylinder 6 feet in diameter by 60 feet long, which is mounted on a slight incline, and so that it may be slowly revolved, with a stack connected with its upper end and provision for a fire at the lower end. As the cylinder revolves, the material travels slowly through, it is exposed to the right gases from the fire, the moisture is driven off, and its constituents are thoroughly mixed. After the materials has been thus dried and mixed, it is elevated again and distributed into blending bins. The chemist again analyzes the material as it is delivered into these bins. He gives directions to the operators to mix bin No. 1 and bin No. 3, or bin No. 2, or to take from all of them at the same time, and thus again blends the raw material so as to get a uniform mixture to be delivered to the kiln. After the materials have been blended in the right proportion and the right weight, the mixed materials is elevated to a feed bin. It is then delivered to the preliminary grinding machine. The usual type consists of a vertical shaft on which is mounted a yoke carrying four rolls, each of which weighs about a ton. As this shaft revolves, the centrifugal power forces these rolls out against a die ring and it comes in contact with the material, which is reduced to such a size that it will pass a screen with 400 meshes to the square inch. As the material is discharged from this preliminary grinder, it is elevated again and delivered to the finish grinder, which is what [fol. 436] is known as a tube mill, wherein it is hammered to pieces by steel balls and discharged through a screen. At that point the material has been reduced to a fineness which permits 98 per cent of it to pass through a sieve with 10,000 meshes per square inch. After it has left the tube mill, it is delivered to the silos or bins storing the raw material. From these silos, the material is taken through little gates and delivered by a conveyor and elevated to the feed bin for the kiln. The chemist is constantly watching the process of feeding the material to the kiln. The mechanism delivering the material to the kiln is generally controlled with variable speed motors, and the burner as well as the chemist directing the burners stand in front of the burning end and absolutely regulate the flow going into the kiln. The kiln itself generally consists of a cylinder from 8 to 10 feet in diameter and from 125 to 175 feet long, lined with fire brick and mounted on a slight incline approximately half an inch to a foot, and so that it may be slowly revolved. As the kiln revolves, the raw material travels slowly through the kiln. In the lower end

of the kiln, the fuel is injected and the hot gases travel through the kiln and up through the chimney connected with its upper end. The material is gradually heated. The carbon dioxide goes off somewhere towards the upper end, at a temperature of approximately 1,000 degrees. It goes off as gas through the stack. As the material advances down the kiln, it gradually gets more heated and begins to [fol. 437] lump up when it reaches the burning zone, which is about 10 to 15 feet from the discharge end. There, there is a chemical combination of lime, aluminum, silica and iron, which are the remaining elements in the raw material. The finished cement clinker is discharged from the kiln as a white hot slag or lava. That is delivered through a spout to a cooler, which underlies the kiln and is mounted exactly as a kiln on a slight incline, and is revolved, and as the cold air travels through the cooler and goes up to the kiln, it absorbs the heat of the clinker, which is discharged at the lower end of the cooler onto a conveyor.

The temperature of the kiln ranges from 2,500 to 2,800 degrees Fahrenheit, which is higher than the temperature required to melt gold, copper, silver, lead, zinc, etc. Approximately 35 per cent of the raw material which goes into the kiln is drawn off in the form of moisture, carbon dioxide and gases. It takes approximately 600 pounds of dry, pulverized, raw material to make one barrel of cement containing 380 pounds. It takes approximately 100 pounds of pulverized coal to burn a barrel of clinker.

The last stage of the process is the grinding of the clinker. After the clinker has gone through a seasoning process necessary to eliminate whatever uncombined lime there may be, the seasoned clinker is delivered to the preliminary grinders, elevated, and then passed through the finishing grinders, then from there delivered to big silos, from which it is delivered into packing bins by packing machinery, which is more or less automatic.

[fol. 438] In addition to the hundred pounds of coal needed to burn a barrel of cement, it requires approximately from 50 to 60 pounds of coal for power purposes to produce a barrel of cement.

Cross-examination by Mr. Fowler:

I am President of the International Cement Corporation. We have one plant in the Argentine, one in Uruguay, one in Cuba, one in Houston, Texas, one in Dallas, and one, the Knickerbocker, at Hudson, New York. Each is operated as a separate operating organization, the stock of which is owned by the International Cement Corporation. I worked at the Nazareth Cement Company in 1903. The stone in the Lehigh Valley approaches somewhere near the natural cement. They have there approximately a natural mixture. In Hudson, we have to make a mechanical mixture of the lime constituent with the clay constituent.

Redirect examination by Mr. Porter:

I don't know what the conditions in the Lehigh Valley are today, but in 1903, I operated the Nazareth plant for weeks, taking the rock

exactly as it came from the quarry. Some of the surrounding mills required from 10 to 20 per cent of either high lime rock or clay to mix with the cement rock.

[fol. 439] JOHN P. FERNSLER, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

Direct examination by Mr. Dorr:

I have been an accountant for fifteen years, nine years with the Department of Justice of the United States and in private practice for six years. While with the Government I worked upon and testified as an expert in the prosecution of John R. Walsh, in Chicago, the Charles W. Morse bank case in New York, and a number of other cases. I have been employed as an accountant on behalf of the defendants in this case and prepared tabulations based upon the records of the defendants, with the aid of assistants, tabulating machinery, etc. All these tabulations have been made from the records of the various defendant companies furnished to the Government under the stipulation.

These sheets show certain data as to shipments in barrels of cement during the period from 1913 to 1921.

Put in evidence Defendants' Exhibits D-260-A to D-260-S, printed in Exhibit Book, p. —.

This is a tabulation for all companies, made from the Exhibits D-260-A to D-260-S.

Put in evidence Defendants's Exhibit D-261, printed in Exhibit Book, p. —.

This is a statement of the average price realized per barrel by each company in the years 1913 to 1921, inclusive.

Put in evidence Defendants' Exhibit D-262, printed in Exhibit Book, p. —.

[fol. 440] These sheets show the average price paid per ton for coal at the mines by each of the companies in the years 1913 to 1921. Two of the companies, Alpha and Bath, kept their coal accounts in such a way that freight and war tax were all included in one account. We did not have time to segregate and analyze and so those two companies are omitted and the tabulations cover the other seventeen companies.

Put in evidence Defendants' Exhibits D-263-A to D-263-R, printed in Exhibit Book, p. —.

These sheets show the labor cost per barrel of cement produced by each of the nineteen companies in the years 1913 to 1921.

Put in evidence Defendants' Exhibits D-264-A to D-264-S, printed in Exhibit Book, p. —.

This is a tabulation for all companies based on the Exhibits D-264-A to D-264-S.

Put in evidence Defendants' Exhibits D-265-A to D-265-I, printed in Exhibit Book, p. —.

This shows the barrels produced by all companies for the years 1913 to 1921.

Put in evidence Defendants' Exhibits D-266, printed in Exhibit Book, p. —.

[fol. 441] This shows the hourly rates of labor paid by the Alpha Portland Cement Company for the years 1913 to 1921.

Put in evidence Defendants' Exhibit D-267, printed in Exhibit Book, p. —.

These sheets show the selling expense and payroll of each of the defendant companies for the years 1913 to 1921.

Put in evidence Defendants' Exhibits D-268-A to D-268-S, printed in Exhibit Book, p. —.

This is a tabulation showing the expense by years and by companies.

Put in evidence Defendants' Exhibits D-269-A to D-269-I, printed in Exhibit Book, p. —.

These sheets show the book value of the gross assets, amounts of stocks, funded indebtedness, surplus deficit, invested capital as reported to Government, net earnings reported to Government, Federal income and profit taxes, interest paid and net income for the various years from 1913 to 1921.

Put in evidence Defendants' Exhibits D-270-A to D-270-S, printed in Exhibit Book, p. —.

This tabulation is the same matter but arranged so that all companies for a particular year appeared on the same sheet.

Put in evidence Defendants' Exhibits D-271-A to D-271-I, printed in Exhibit Book, p. —.

These sheets show the details of the total expense of the Atlas Company, Lehigh Company, Penn-Allen Company and Coplay Company.

Put in evidence Defendants' Exhibits D-272-A to D-272-D, printed in Exhibit Book, p. —.

These sheets show the figures relating to bags of the various companies.

Put in evidence Defendants' Exhibits D-273-A to D-273-S, printed in Exhibit Book, p. —.

This sheet shows the annual profit or loss of each company on its bag accounts, 1913 to 1921, inclusive.

Put in evidence Defendants' Exhibit D-274, printed in Exhibit Book, p. —.

These sheets give the age of the mills and the quantity of rock deposits of the various companies.

Put in evidence Defendants' Exhibits D-275-A to D-275-S, printed in Exhibit Book, p. —.

[fol. 443] These sheets show the number and size of kilns of the defendants' mills.

Put in evidence Defendants' Exhibits D-276A to D-276S, not printed by consent.

These sheets show the working capital of the various companies for the years 1917 to 1921, inclusive.

Put in evidence Defendants' Exhibits D-277A to D-277S, printed in Exhibit Book, p. —.

This sheet is a tabulation of the working capital of all the companies.

Put in evidence Defendants' Exhibit D-278, printed in Exhibit Book, p. —.

This sheet is a tabulation showing for all companies the average price realized and the average expense per barrel for the years 1913 to 1921, inclusive, prepared from defendants' Exhibits D-260A-S, D-261, D-262 and D-271A-I.

Put in evidence Defendants' Exhibit D-279, printed in Exhibit Book, p. —.

Copies of Form 11 of Protective Association, giving summary of unshipped balances, March 31, 1921, April 30, 1921, May 31, 1921, June 30, 1921 and July 31, 1921, put in evidence Defendants' Exhibits D-280 to D-284, inclusive. Not printed by consent.

[fol. 444] This chart shows the index prices of commodities generally in the United States and England from about the beginning of the last century down to 1921. It charts the index figures of the Federal Reserve Bank. The index figures give the value of commodities generally in terms of a dollar in a given year. The year 1913 is used as a base or 100. The comparison which the chart makes is between the prices of commodities generally in terms of a dollar in 1913, the year before the World War, and in the subsequent years, through 1921, and in the previous years, in the case of England back to 1790. The index figures for England went back to 1790. The index figures for the United States went back to 1801 or 1802. At the left of the chart the period is near the beginning of the Napoleonic wars. The prices of commodities went

up. When the United States appears on the chart in the solid black line, the prices of commodities were high as compared with what they became later. The point of extreme height was when we were engaged in the War of 1812. Thereafter the value of the dollar increased and commodities fell, until in the neighborhood of 1850, when you could get more for your dollar in commodities than you could at any point prior to that. Thereafter we had the Civil War, and after it the prices of commodities fell, until between 1880 and 1890 they were down. With the beginning of the World War prices rose rapidly. As indicated by the dotted line they rose more rapidly in England than in the United States. They reached that peak in 1920 and then they began to fall.

Chart put in evidence Defendants' Exhibit D-285, printed in Exhibit Book, p. —.

[fol. 445]. This chart shows the rise and fall in the price of coal per net ton at the mines as purchased by the seventeen companies mentioned and also the average price realized per barrel of cement by those seventeen companies.

Put in evidence Defendants' Exhibit D-286, printed in Exhibit Book, p. —.

I have prepared charts showing the figures as to particular companies. The weighted average for all companies paid for a ton of coal in 1920 was \$5,977. In that year the Dexter Company paid \$7,876.

Chart of Dexter Co. prices put in evidence Defendants' Exhibit D-287. Not printed by consent.

The Lehigh Company was able to secure its coal in 1920 for \$5.52 on an average. The Penn-Allen Company paid for coal in 1920 on an average of \$7.34. Lawrence paid on an average \$5.74.

Charts showing prices paid for coal by Lehigh, Penn-Allen, and Lawrence Companies put in evidence Defendants' Exhibits D-288, D-289, D-291. Not printed by consent.

At times, particularly in the summer of 1920, the prices paid for coal went materially higher than the average shows in these charts. Thus, as shown by this bundle of invoices, the Vulcanite Company paid as high as \$11.50 a ton, the Lehigh Company paid as high as \$12.00 a ton, the Alpha Company paid \$11.00 a ton.

Invoices marked Defendants' Exhibit D-290 for identification, not printed by consent.

[fol. 446] This chart, taken from Defendants' Exhibit D-264 A-S and D-265 A-1, shows the increase in the cost of labor as compared with the increase in the price of cement for all the nineteen defendant companies.

Put in evidence Defendants' Exhibit D-292, printed in Exhibit Book, p. —.

That is the labor which went into the production of cement at the mills of these defendant companies. For instance, in 1920 labor was 234.34 per cent of what it was in 1913, as shown by the chart.

This chart shows the cost of coal on a percentage basis, taking 1913 as a base.

Put in evidence Defendants' Exhibit D-293. Printed in Exhibit Book, p. —.

This chart shows the increase in the rate of wages paid per hour at the plant of the Alpha Company on a monthly basis, covering 1913 to 1921. In January, 1913, the hourly rate was 19.8 cents. In December, 1913, it reached 20.2. In 1914, 20.4 cents was the highest hourly rate at any time during the year. During the year 1915 the lowest was 20.10 cents in May and 20.8 cents in February, and it reached 27.7 by December, 1916. 1916 was the first year of substantial increase in labor rates in cement. In 1917 it reached 32.3 in December. In 1918 it reached 44.3. During the early part of 1920 another rise set in. In February it went to 47 cents, in May to 51 cents and in October to 52 cents. At the end of the year 1920 [fol. 447] it was 51.8 cents. After that there was a fairly steady decline.

Chart put in evidence Defendants' Exhibit D-294, printed in Exhibit Book, p. —.

This chart, taken from Defendants' Exhibits D-268 A-S and D-269 A-I, shows the average selling cost per barrel of cement shipped by the nineteen companies from 1913 to 1921 compared with the average price realized, taking 1913 as the base. The selling cost is made up of salesmen's salaries, traveling, advertising and selling office expense. It was 24% more in 1914 than it was in 1913. In 1915 it was about the same as 1914, the difference being 3%. In 1916 the selling expense increased 51% over 1913, and thereafter there was a gradual rise up to 1919. In 1920 selling cost fell off. In 1921 it increased again.

Chart put in evidence Defendants' Exhibit D-295, printed in Exhibit Book, p. —.

This chart shows the average price realized per barrel of cement by each of the eighteen defendant companies operating in the year 1913 as compared with the average price realized by each of the others, and these other eight charts show the same thing for the years 1914 to 1921, inclusive.

Put in evidence Defendants' Exhibits D-296 to 304, inclusive, printed in Exhibit Book, p. —.

This series of charts, prepared from Exhibits D-261, 262, 270 [fol. 448] A-S and 271 A-I, show the aggregate receipts from the sale of cement and the expenses of each company each year from 1913 to 1921, inclusive.

Put in evidence Defendants' Exhibits D-305, 306, 307, 310, 311, 314, 315, 316, 317, 318, 319, 320, 321, 324, 325, 328, 329, 330, 331. Printed in Exhibit Book, p. —.

This chart shows similarly the aggregate receipts from the sale of cement and the aggregate expense of all the nineteen companies each year from 1913 to 1921.

Put in evidence Defendants' Exhibit D-332, printed in Exhibit Book, p. —.

These four charts show the aggregate receipts and expenses of four companies divided by the number of barrels shipped by each year—in other words they show the average amount received per barrel as compared with the average expense per barrel for the Atlas, Coplay, Lehigh and Penn-Allen Companies.

Put in evidence Defendants' Exhibits D-308, 312, 322, 326, printed in Exhibit Book, p. —.

These four charts show the average price realized per barrel each year and the various items of expense each year of the four companies selected as representative, Atlas, Coplay, Lehigh and Penn-Allen.

Put in evidence Defendants' Exhibits D-309, 313, 323, 327. D-309 printed in Exhibit Book, p. —. Others not printed by consent.

[fol. 449] This chart shows the percentage of profits to the aggregate receipts for all companies from 1913 to 1921. In the year 1913 the percentage of profit was 12.47; 1914, 14.39; 1915, 3.50; 1916, 15.66; 1917, 8.00; 1918, 5.50; 1919, 10.41; 1920, 5.18; 1921, 5.01.

Chart put in evidence Defendants' Exhibit D-333, printed in Exhibit Book, p. —.

These charts show for each company the invested capital as reported to the Government and the profits as reported to the Government each year from 1913 to 1921. They did not report on the invested capital basis to the Government until 1917. In 1917 they reported the pre-war period, which took in the year 1913. So the figures for the years 1913, 1917, 1918, 1919, 1920 and 1921 are from the Government income tax returns, and 1914, 1915 and 1916 are reconstructed on the same basis. The figures are in hundreds of thousands of dollars. For instance, "5" represents five hundred thousand dollars.

Put in evidence Defendants' Exhibits D-334 to 352, inclusive, printed in Exhibit Book, p. —.

This chart shows the same thing for the nineteen defendant companies collectively.

Put in evidence Defendants' Exhibit D-353, printed in Exhibit Book, p. —.

[fol. 450] This chart shows the percentage of return on invested capital for all companies, showing the figures and presenting them in the form of a line chart.

Put in evidence Defendants' Exhibit D-354, printed in Exhibit Book, p. —.

This chart shows the purchasing power of the dollar, and is based on figures of the United States Department of Commerce.

Put in evidence Defendants' Exhibit D-363, not printed by consent.

This chart applies these figures to the profits made by these cement companies and shows their profits expressed in the purchasing power of the dollar each year as distinguished from the nominal dollar.

Put in evidence Defendants' Exhibit D-364, printed in Exhibit Book, p. —.

[fol. 451] This chart shows the receipts per barrel and expense per barrel on all shipments by all companies from year to year.

Put in evidence Defendants' Exhibit D-365, printed in Exhibit Book, p. —.

This chart is based on exhibits D-274 and D-273, A to S, and shows the total combined loss or profit for each year on bags, on the basis of millions of dollars for the seventeen companies, not including Dexter and Pennsylvania.

Put in evidence Defendants' Exhibit D-366, printed in Exhibit Book, p. —.

This is a chart illustrating Government's Exhibits 373A and 374. It shows the number of barrels shipped by each company each year from 1915 to 1920, inclusive, except that Hercules appears for 1917 to 1920, inclusive. Each line represents a year, the height of the line representing the number of barrels shipped that year and the six lines for each company are placed together over the name of that company.

Put in evidence Defendants' Exhibit D-367, printed in Exhibit Book, p. —.

[fol. 452] These five charts show graphically the figures of Government's Exhibit No. 391. They show the proportion which the actual production of each company each year bore to the maximum capacity figures used by the Government. For instance, in 1916 Allentown's production was 85 per cent of such maximum capacity, Alpha 51 per cent, and so on. Each of the charts shows one year.

Put in evidence chart for year 1916, Defendants' Exhibit D-368A; chart for 1917, Defendants' Exhibit D-368B; chart for 1918, De-

defendants' Exhibit D-368C; chart for 1919, Defendants' Exhibit D-368D; chart for 1920, Defendants' Exhibit D-368E.

These eight charts illustrate graphically Government's Exhibit No. 377. They show the percentage of the total business for the year which each of the companies did and whether the proportion of each company remained the same or increased or decreased in each succeeding year. Thus, the proportion of the whole which Allentown produced in 1917 was 10 per cent below its proportion of the whole in 1916, and in 1918 Allentown's proportion was 39½ per cent less than in 1916, and in 1919, 20 per cent less than in 1916, and in 1920, 33.8 per cent less than in 1916.

Put in evidence Defendants' Exhibits D-369A to D-369H, inclusive, printed in Exhibit Book, p. —.

[fol. 453] These five charts illustrate graphically Government's Exhibit- Nos. 382, 388 and 390. They show the percentage of actual shipments to the capacity figures. Thus, Allentown in 1916 shows an increase or excess amount of 32.07 per cent, equaling 254,354 barrels; in 1917, the percentage increase of Allentown was 18.3 per cent, equaling 127,852 barrels; in 1918, a reduction of 10.8 per cent, representing 45,999 barrels; in 1919, an increase of 15.5 per cent, representing 101,334 barrels; in 1920, a decrease of 2.5 per cent, representing 24,922 barrels. If the production of each company each year had been in accordance with its proportion of the total capacity as shown by the Government's figures, then the line appearing on these charts for each year would have been a straight line running along at zero.

Put in evidence Defendants' Exhibit D-370, A to E, inclusive, printed in Exhibit Book, p. —.

Charts have also been prepared based on figures which include shipments from all the mills named in the indictment, and not merely those mills whose shipments appear in the Government's figures. These charts were prepared from figures in evidence, taking the year 1916 as the base and showing the proportion of the [fol. 454] total shipments which each company made each year from all the mills named in the indictment. If the proportion of the total shipments made by each company had been the same each year, the lines shown in this chart would all have been straight lines running from side to side on the line 100.

Put in evidence Defendants' Exhibit D-376A to D-376F, inclusive, printed in Exhibit Book, p. —.

The figures of invested capital and income which I gave yesterday were the figures reported to the Government for income and profit tax purposes. The book value of the assets of the companies was greater than that. Thus, in 1920 the book value of the assets was \$102,000,000, while the invested capital reported was \$76,000,000, a difference of \$26,000,000.

This chart has been prepared from the exhibits in evidence and

shows the specific job contracts outstanding at different times during the period covered by the indictment, according to the figures of the Cement Manufacturers' Protective Association. The line represents unshipped balances and future business commitments on specific jobs. It does not include sales to dealers, but merely the outstanding, unfilled specific job contracts for future delivery. Thus on August 10, 1918, the date mentioned in the indictment, the amount was 12,824,000. By January the commitments had dropped [fol. 455] to 4,164,000. Through the first half of 1919 they were less than 5,000,000. After that they began to rise, until at the first of the year they stood at 15,698,000. The highest point was 23,606,000 barrels. In June, 1920, it began to go down. In August, 1921, it was 6,176,000 barrels.

Put in evidence Defendants' Exhibit D-377, printed in Exhibit Book, p. —.

This colored chart shows the date when changes were made in the base price by each company in figuring most of its quotations from the Lehigh Valley base, between December 1, 1919 and December 31, 1920. It is based on Government's Exhibit No. 675, a color being used to indicate a particular base price.

Put in evidence Defendants' Exhibit D-378, printed in Exhibit Book, p. —.

[fol. 456] This chart illustrates geographically the net earnings of the defendant companies which reported net earnings to the Government during the years 1918, 1919 and 1920 as compared with the average net earnings reported to the Government as testified to by the witness Adams.

Put in evidence Defendants' Exhibit D-456, printed in Exhibit Book, p. —.

Cross-examination by Mr. Fowler:

I am the chief accountant employed by the defendants and have had from forty to sixty accountants working with me. I have not physically done the work myself but have relied upon my accountants. That would have been absolutely impossible.

In 1915 the book value gross assets of the Alpha Company was \$13,021,898.19. In 1920 the book value gross assets was \$13,989,535.37. That is, it increased something like \$900,000. I don't think that company owned mills out west in 1915. They did in 1920. In 1920 the Alpha Company were carrying Government securities \$2,346,546.55; they were carrying Alpha Portland Cement Company \$4,500,000; they were carrying bonds in New York State and Philadelphia \$9,010.

In 1920 Alpha received from the sale of cement \$8,336,831.74. The price per barrel was found by the men working under me, taking the sales and dividing it by the number of barrels. The net

[fol. 457] income was taken from the Income Tax Return. The way I reached the total expense was to subtract the net income from the receipts for cement alone.

The Alpha Company in 1920 paid 7% on the \$2,000,000 preferred stock. On the \$8,000,000 common stock in 1920 it paid 3% and 3% extra. It paid a 25% stock dividend on October 13, 1920.

Coplay in 1916 sold cement amounting to \$1,190,734.47, upon which it realized a profit of \$277,932.10, or 23 $\frac{3}{4}$ %. In 1917 the receipts from the sale of cement were \$1,402,719.47 and the profits amounted to \$131,464.68. In 1918 the receipts were \$1,510,420.02. That is greater than in previous years and yet it lost \$70,396.04. In 1919 its receipts were \$1,711,818.90, considerably larger than previous years, but it lost \$4,544,056. The cost per barrel on coal and other materials that year was about \$1.90 per barrel more than it was in 1918. In 1918 they paid 6% on the preferred stock. In 1919 they paid 3% on the preferred stock. They paid nothing on the common stock.

The Edison Company made one-tenth of one per cent in 1914, but it lost heavily every other year. It runs on borrowed money. I think the Edison Company had twelve million dollars of common stock issued for patents. In 1920 that common stock was all cut out but about a million and a half. I don't know whether the machinery which was put into the Edison plant originally could not make cement cheaply. I think in later years there was a great change in the mechanical devices. I think they started to make changes in the plant about 1918 and kept it up to 1920. The plant was shut down in April, 1916.

[fol. 458] Phoenix was shut down in 1918.

There is a difference between the base price and the amount actually received, arising from the fact that when cement is shipped from a mill to some territory the mill has to absorb the freight.

In the charts showing the elements of expense, D-323 and D-327, the material which is taken from the company's own property is not included under "material." It is depletion. Material in these charts means materials purchased from other sources. It includes the freight on getting it to the plant. Under repairs is all the money spent in repairing the plant and machinery. The charge of depreciation and depletion after 1917 was in accordance with the Government's mortality table which fixed the life of each particular machine and how long it would last.

Bags were purchased and put into a bag account at cost. Those are new bags. After a certain length of time they are used and go into a used bag account and put on a second hand valuation. That difference between their cost and their value as a second hand bag is charged to a bag profit and loss account. The company buys its bags at a certain price. They are not all returned to it. When they are returned they are in a depreciated condition, some useless. Three or four trips is the common life of a bag.

Redirect examination by Mr. Dorr:

The \$4,500,000 of Alpha Company of Pennsylvania carried as an asset of the Alpha Company represents the investment in two plants [fol. 459] at Martins Creek, Pennsylvania, which stand in the name of a Pennsylvania corporation because of their location in the State of Pennsylvania. The income of these companies other than that from the sale of cement has not been included in the "average receipts per barrel" but has been taken account of in the expense. The interest items on the United States securities and other securities of the Alpha Company in 1919 amounted to \$6,703.48 and about the same in 1920.

In 1920 the stockholders of the Edison Company turned in and cancelled notes amounting to \$2,377,126.20. The Alpha Company had not declared any dividends on the common stock from 1910 to 1916. The dividends declared by the defendant companies have been as follows:

Allentown in 1919 paid 3% on its preferred stock. In 1920 and 1921 it paid 6% on the preferred stock. It has never paid anything on its common stock. That would be .94 of one per cent on the total capital stock in 1919; 1.89 per cent in 1920 and 1.89 per cent in 1921. It would be .78 of one per cent on the invested capital in 1919; 1.21 per cent on the invested capital in 1920 and 1.22 per cent on the invested capital in 1921.

The dividends of the Alpha Company on the total capital stock and on the invested capital as reported to the Government were:

	Dividend to capital stock	Dividend to invested capital
1913.....	1.4 per cent	1.25 per cent
1914.....	1.4 per cent	1.18 per cent
1915.....	1.4 per cent	1.09 per cent
1916.....	3 per cent	2.32 per cent

[fol. 460]

1917.....	3.8 per cent	2.91 per cent
1918.....	3.8 per cent	2.83 per cent
1919.....	3.8 per cent	2.78 per cent
1920.....	6.2 per cent	4.34 per cent
1921.....	4.92 per cent	4.03 per cent

The figures for the Atlas Company are:

	Dividend to capital stock	Dividend to invested capital
1913.....	.96 per cent	.79 per cent
1914.....	.96 per cent	.78 per cent
1915.....	1.62 per cent	1.29 per cent
1916.....	1.55 per cent	1.33 per cent
1917.....	1.49 per cent	1.2 per cent
1918.....	1.43 per cent	1.02 per cent
1919.....	3.45 per cent	2.35 per cent
1920.....	5.47 per cent	3.46 per cent
1921.....	4.47 per cent	3.89 per cent

From 1910 to 1919 the Atlas Company did not pay any dividend at all on its common stock. In 1920 they declared a 50% stock dividend from surplus accumulated on the whole business, east and west.

The figures for the Bath Company are:

	Dividend to capital stock	Dividend to invested capital
1913.....	2 per cent	1.98 per cent
1914.....	2 per cent	1.66 per cent
1916.....	4 per cent	3.06 per cent
1917.....	6 per cent	4.38 per cent
1919.....	9 per cent	6.64 per cent
1920.....	6.53 per cent	4.66 per cent
1921.....	4.83 per cent	4.41 per cent

[fol. 461] The figures for the Coplay Company are:

	Dividend to capital stock	Dividend to invested capital
1913	No dividends declared.	
1914	No dividends declared.	
1915.....	.95 per cent	.74 per cent
1916.....	1.91 per cent	1.59 per cent
1917.....	2.87 per cent	2.26 per cent
1918.....	1.91 per cent	1.63 per cent
1919.....	.95 per cent	.84 per cent
1920.....	1.91 per cent	1.71 per cent
1921	No dividends.	

The figures for the Dexter Company are:

	Dividend to capital stock	Dividend to invested capital
1913.....	8 per cent	4.76 per cent
1914.....	8 per cent	4.41 per cent
1915.....	9.50 per cent	4.85 per cent
1916.....	11.66 per cent	6.15 per cent
1917.....	12.77 per cent	7.25 per cent
1918.....	18.66 per cent	7.28 per cent
1919.....	30.75 per cent	15.27 per cent
1920.....	38.51 per cent	13.02 per cent
1921.....	8.49 per cent	7.06 per cent

[fol. 462] The Dexter Company had a very low capitalization. In 1919 its capital stock was \$400,000. Its invested capital, including surplus, was \$1,041,099.57. Its replacement value was \$3,233,006. 12. It declared a stock dividend in 1920, increasing the capital stock outstanding to \$995,440.

The Edison Company did not pay any dividends in any year.

The Giant Company paid no dividends in any year except 1920, when a dividend was paid which represented 2.2 per cent. on the capital stock and 2.44 per cent. on the invested capital.

The figures as to Glens Falls are as follows:

	Dividend to capital stock	Dividend to invested capital
1913.....	9.33 per cent	5.91 per cent
1914.....	9.33 per cent	5.42 per cent
1915.....	9.33 per cent	5.09 per cent
1916.....	9.33 per cent	5.48 per cent
1917.....	14.33 per cent	8.49 per cent
1918.....	10.16 per cent	5.56 per cent
1919.....	14.33 per cent	7.45 per cent
1920.....	18.5 per cent	9.24 per cent

Glens Falls capital stock was \$600,000. Its invested capital in 1913 was \$947,474.56, and in 1921 it was \$1,163,397.75.

[fol. 463] The Hercules Company never paid any dividends.

The Knickerbocker Company paid no dividends in 1913, 1914, 1915, 1916 and 1917. In 1918, 1919, 1920 and 1921, it paid dividends as follows: 1918, 3.65 per cent. on capital stock and 4.21 on invested capital; 1919, 3.65 per cent. on capital stock and 3.42 on invested capital; 1920, 3.65 per cent. on capital stock and 3.37 on invested capital; 1921, 3.65 per cent. on capital stock and 3.36 per cent. on invested capital.

The dividends of the Lawrence Company have been as follows:

	Dividend to capital stock	Dividend to invested capital
1913.....	6 per cent	4.08 per cent
1914.....	8 per cent	5.31 per cent
1915.....	9.6 per cent	5.77 per cent
1916.....	8 per cent	5.44 per cent
1917.....	9.97 per cent	7.63 per cent
1918.....	8.61 per cent	7.02 per cent
1919.....	8 per cent	6.95 per cent
1920.....	9.34 per cent	6.71 per cent
1921.....	8 per cent	6.95 per cent

The capital stock of the Lawrence Company prior to 1916 was \$1,200,000. In 1916, it was increased by a stock dividend of 25% to \$1,500,000.

[fol. 464] The dividends of the Lehigh Company have been as follows:

	Dividend to capital stock	Dividend to invested capital
1913.....	6.88 per cent	4.42 per cent
1914.....	6.79 per cent	4.21 per cent
1915.....	6 per cent	3.4 per cent
1916.....	8 per cent	4.37 per cent
1917.....	7.2 per cent	3.34 per cent
1918.....	4 per cent	2.47 per cent
1919.....	6.26 per cent	3.73 per cent
1920.....	6 per cent	3.39 per cent
1921.....	6 per cent	3.18 per cent

In 1917, the Lehigh Company declared a stock dividend of 50 per cent. out of accumulations from 1898.

The Nazareth Company paid no dividends in 1913, 1914, 1915, 1916 or 1917. The dividends since then have been:

	Dividend to capital stock	Dividend to invested capital
1918.....	2.86 per cent	1.18 per cent
1919.....	8.76 per cent	3.38 per cent
1920.....	5.87 per cent	2.06 per cent
1921.....	5.91 per cent	1.82 per cent

The Penn-Allen Company paid no dividends in 1913, 1915 or 1920. Its dividends in the other years were:

	Dividend to capital stock	Dividend to invested capital
1914.....	.48 per cent	.40 per cent
1916.....	3.46 per cent	2.59 per cent
1917.....	5.21 per cent	3.22 per cent
1918.....	5.20 per cent	3.08 per cent
1919.....	10 per cent	5.72 per cent
1921.....	12 per cent	6.44 per cent

[fol. 465]

Pennsylvania paid no dividends in 1913, 1914, 1915, 1916, 1917 or 1919. In 1918 it paid 5.29 per cent. on capital stock or 3.82 per cent. on invested capital. In 1920 it paid 7.67 per cent. on capital stock or 4.71 per cent. on invested capital. In 1921 it paid 19.25 per cent on capital stock or 11.43 per cent. on invested capital. In 1921 there was a payment of cumulative preferred dividend of 29% which was included in the figures given.

Phoenix has paid no dividends in any year.

Security paid no dividends in 1913, 1914, 1915 or 1916. Its dividends in the other years have been:

	Dividend to capital stock	Dividend to invested capital
1917.....	11.7 per cent	9.2 per cent
1918.....	7.7 per cent	5.8 per cent
1919.....	7.7 per cent	6.1 per cent
1920.....	7.7 per cent	6.3 per cent
1921.....	7.7 per cent	6.8 per cent

[fol. 466] Vulcanite paid no dividends in 1913, 1914, 1915 or 1921. Its dividends in the other years have been:

	Dividend to capital stock	Dividend to invested capital
1916.....	4.57 per cent	3.67 per cent
1917.....	6 per cent	4.8 per cent
1918.....	5.5 per cent	4.3 per cent
1919.....	6.5 per cent	5.2 per cent
1920.....	4.2 per cent	2.97 per cent

These charts show the figures.

Put in evidence Defendants' Exhibits D-638 and D-639, A to S printed in Exhibit Book, p. —.

This chart shows the total net income plus interest of the nineteen defendant companies in proportion to the total invested in the business.

Put in evidence Defendants' Exhibit D-356, printed in Exhibit Book, p. —.

This chart shows the profit as compared with the replacement value, less depreciation, plus working capital, plus rock deposits, for all companies for the years 1919 and 1920.

Put in evidence Defendants' Exhibit D-457 and Defendants' Exhibit D-640, printed in Exhibit Book, p. —.

[fol. 467] GEORGE W. GOETHALS, a witness being called on behalf of the defendants, being duly sworn, testified as follows:

I am an officer of the United States Army on the retired list, an engincer engaged in private practice in New York City. I graduated

from West Point in 1880 and became a member of the Corps of Engineers of the United States Army, and as such was engaged on river and harbor improvements and fortification work. I was engaged on that for twenty-seven years before I was assigned to special duty at Panama in 1907. I was there nearly ten years. Shortly after the war broke out I was called again into the active service of the Government, first as general manager of the Emergency Fleet Corporation, then Acting Quartermaster General, then in charge of all transportation and storage for the War Department, then in April, 1918 I took charge of the Division of Purchase, Storage and Traffic, which handled all traffic matters, all storage matters, and the purchase of all standard commodities. After the war was over I went back to my profession as an engineer.

I first came in touch with the cement industry on the Pacific Coast in the construction of the locks on the Columbia River. The cement there was English Portland cement brought in by sailing vessels. At that time we got our Portland cement largely from Europe. The development of its manufacture in this country was in its infancy. I have watched and seen the industry develop. It started in what is known as the Lehigh Valley District in Pennsylvania. The cement made there came into more general use about 1890. Then it developed rapidly, until 1895, although during that period I authorized the purchase of some Belgian cement on the Pacific Coast and used German Portland cement, brought in from [fol. 468] New Orleans, in my own work on the Tennessee River. The strides forward have been very rapid from 1890, the production increasing from about a million barrels per annum to about one hundred million barrels per annum.

In the early stages the Lehigh Valley supplied all the Portland cement made in this country. In 1897 75 per cent of the Portland cement used in the United States came from the Lehigh Valley, now about 26 per cent of the cement used in the United States comes from the Lehigh Valley. The construction of Portland cement mills in other parts of the United States has operated to restrict constantly the market of the Lehigh Valley product.

The use of Portland cement has developed more rapidly than any other manufactured product that is comparable with it.

I am familiar with the sales and quotations for cement that were made for the use of cement in the Panama Canal. We advertised between 1907 and 1908 for relatively small lots of cement. In 1908 we put out an advertisement for all the cement necessary for the construction of the locks, aggregating 4,500,000 barrels, with a possible decrease or increase of 15 per cent of that amount. We received 25 proposals from various companies, 11 of them American companies, 5 Germans, 3 English, and the other scattering foreign bids. We got bids from the Atlas Company, the Alpha Company, the Lehigh Company, the Commonwealth Company of Virginia, the Edison Company, the Western States Company of Kansas, the Santa Cruz Company of San Francisco, and the Pacific Company. Those are the American companies. The prices varied from \$1.19

per barrel of the Atlas Company in barrels, or \$1.60 per barrel in [fol. 469] bags, with a rebate of 8½ cents a bag for each bag returned, delivering in double bags on account of the moist climate there. The Alpha and Lehigh Companies in a combined bid offered to furnish the total amount at \$1.425 in barrels. The Commonwealth Company of Virginia offered to furnish the cement at 88 cents per barrel at their mill in Virginia, the Government to undertake the operation of the mill. We accepted the Atlas Company's proposition, partly in barrels and partly in bags.

In 1912 we asked for new proposals for a million barrels for use on the construction of our terminals and fortification. The Alpha and Lehigh again combined for the total amount required at \$1.91 per barrel in bags, double bags, with a rebate of 10 cents per bag returned. The California Cement Company offered it for \$1.97. The Atlas Company submitted a letter offering to continue their former contract for all of the cement required at the old figures, so we accepted that company's proposition. On March 18, 1921 we advertised for 5,000 barrels and received 13 bids, some of which were: The Alpha Company \$4.00 at Martins Creek, Pennsylvania, \$4.38 at the dock at Jersey City. The Edison Company \$4.33 at Hoboken, New Jersey, \$3.80 at New Village, New Jersey, \$5.57 at Cristobal, Panama. The Atlas Company \$4.48 at Cristobal, Panama. The Hercules Company \$3.41 at Jersey City. The contract was awarded to the Atlas Company.

We had another bid for 10,000 barrels on May 16, 1921. Some of the bids were: The Alpha Company \$3.18 per barrel at Jersey City. The Atlas Company \$4.00 at Cristobal, Panama. The Edison Company \$4.24 at Cristobal, Panama, \$3.16 at Jersey City. The Lehigh Company \$4.30 at Cristobal, Panama, \$3.21 at Jersey City. [fol. 470] On July 19, 1921, 10,000 barrels were again called for. Some of the bids were: The Coplay Company \$4.43 at Cristobal. The Edison Company \$4.27 at Cristobal. The Lehigh Company \$4.46 at Cristobal. The Vulcanite Company \$4.35 at Cristobal. The Atlas Company \$3.76 at Cristobal.

I have noticed the development of the standardization of cement. When I was on duty in charge of awards of contracts in the Chief of Engineers Office the specifications came in with all sorts of qualifications required for cement, and in 1901 the Engineering Department of the Army undertook the standardization of specifications and requirements. It was subsequently undertaken by the American Society of Standards. In 1912 various Government bureaus and departments got together with the Bureau of Standards and prepared standard specifications for all Government work, which were made effective by an Executive Order. Subsequent to the issue, in 1912 the requirements were much more severe than the standard of the American Society of Civil Engineers and the American Society of Standards. So those two organizations got together with the Government representatives and prepared the standard specifications of 1917 and they are now the standard specifications.

The standards have given us better cement, the decreased price that

all standardization results in, greater economy, greater safety and more extended use. The movement for standardization was initiated outside of and imposed upon the industry.

[fol. 471] Even before this movement towards standardization began in 1901, Portland cement, speaking generally, was of a rather uniform character and these standards were to increase its strength and give greater safety to the public.

I am familiar with bids for cement and other standard articles in a dealer's market, brick, lime, cement. According to my experience there is in the ordinary quoted market prices in a dealer market for standardized articles like cement where bids are taken for a single large enterprise, no difference in the bids. There is uniformity in the price that has to be paid for the material. The dealer is a trained buyer, he is watching the market prices all the time. He is particularly alert to ascertain any changes or differences in price. That certainly tends towards making the quotations in such a market more uniform than they would otherwise be. I have found them so in my experience. That is true of other commodities besides cement. It is a general principle.

A manufacturer selling his product to a large number of dealers cannot give one dealer a better price than another. If he does, he loses his market entirely. I have had experience in that. I have been handling just that situation. You cannot keep such a thing secret. I have observed the working of that in building materials generally, sand, stone, common brick. We tried it in beaverboard and in roofing.

The price paid for returned bags also tends towards uniformity in the same way as the product itself. I have watched that also in the [fol. 472] case of gypsum and know that it is so. That is the only other one I have had any experience with. In case the same price was not paid you would lose your dealer.

The manufacturer must also allow a differential to dealers in order to sell through dealers. There is an advantage in selling to dealers, and in order to get that you have to give them a differential.

As to statistics, the more information a man has who is engaged in a particular line of business, of all the conditions that affect that particular line of business, including stocks on hand and everything that is going on in that industry, if he properly uses that information, the better position he is in to benefit himself than he would be without it. If he cannot get it in any other way, he will sneak around and get it. Intelligence is necessary in competition. Knowledge of the facts is an advantage to the manufacturer.

War conditions brought about a considerable change in the market for cement in the Lehigh Valley mills. In the first place, the curtailment in fuel supply to the mills by the Government. Subsequent to the war, the failure to revive in the building industry. There has been a curtailment in the use of cement. The railroads have not been building practically since war began. The financial condition of the railroads was such that there was a great check on building in 1914, 1915 and 1916 and in 1917 the Government [fol. 473] took over the railroads. The effect of these different checks

was to decrease the demand for cement. It decreased the production.

In a well organized manufacturing industry, production should follow along with sales. One must keep up with the other. If your production outstrips your selling, you are tying up capital, increasing storage space required and running the danger of deterioration. That is particularly true in regard to cement. Cement is liable to deteriorate.

I have had occasion to compute the amount of cement required in the construction of an ordinary cement house. On the Canal we built a number of cement buildings. The cost of cement averaged about 3 per cent. of the cost of the buildings. We did some figuring on an apartment house here and the cement cost about 1.7 per cent. It was made of hollow cement tile. I had charge of the design and construction of the Brooklyn Army Base. There the cost of cement ran 6.7 per cent. of the total cost.

I have observed the cash discounts for prompt payment. That is done in all business. The discount allowed is and must be uniform between the different manufacturers. Otherwise you lose your dealers, lose your customers.

Cross-examination by Mr. Fowler:

If you do a little better by the fellow than your competitor, you [fol. 474] get that business. If he goes a little better than you, he will get the business. The ultimate result after it was all gone through would be that they will be level again. They are competing. They are getting after the same business. I don't mean to say that where two people are offering exactly the same discount that they are trying to compete with each other so far as discount is concerned.

[fol. 475] EDWARD N. HURLEY, called as a witness on behalf of the Defendants, being first duly sworn, testified as follows:

Direct examination by Mr. Stimson:

I am a business man, a manufacturer of electrical supplies at present. I was formerly a locomotive engineer on the railroad. Then I traveled selling metallic packing for about ten years. Then I started in the pneumatic tool business and invented and developed the first pneumatic tool that was ever introduced in this country and in Europe. I retired from business for four or five years. Then at the request of the Secretary of Commerce I made a trip to South America and made a report on the banking conditions in Argentine, Brazil, Chile and Peru. When I came back I was appointed Vice Chairman of the Federal Trade Commission, in January, 1915. The act was passed in the Fall of 1914. I continued as Vice Chairman until July 1, 1916, when I became Chairman. I remained Chairman until March, 1917, when I resigned, being asked by the President to go on the Red Cross War Council to start their drive for the Red Cross. Then the President asked me to go on the War

Trade Board, and I served there until July, 1917, when he appointed me Chairman of the United States Shipping Board. I remained with the Shipping Board until July 31st, 1919, when I went back to private business. I am now Chairman of the Board of the Hurley Machine Company.

[fol. 476] When the Federal Trade Commission was started, the Commission as a whole was told to go into every detail of the acute business situation and see what we could do to relieve it. We started by taking a trip to Boston and the Pacific Coast and learning at first hand the situation. We found things rather demoralized. After we got in touch with the situation, we presented a questionnaire to the business men of the country and endeavored to ascertain the real facts and figures. The cement industry was one of those to which we sent questionnaires and from which we obtained direct information. We got the facts from all the industries. The physical condition of business was very sick. It was in a very bad way all over the country. We found a very large percentage of business men were entirely ignorant as to their costs. There were very few statistics outside of the packing industry and some of the industries that were investigated by the Bureau of Corporations. The Government was furnishing statistics for the railroads and the packing industry—I mean the Agricultural Department and Interstate Commerce Commission. In ordinary manufacture that was not the case. There was no way in which an ordinary manufacturer could get the same kind of statistics that the farmer gets from the Government. We found that there was no place where we could get any statistical data to guide us in the study that we wanted to make, and that is what prompted us to send out the questionnaire. Our work was [fol. 477] directed mainly towards the condition of manufacturing. We had charge of business generally. We found that the manufacturer in general had nowhere that he could get his statistics. We were very anxious to help the small manufacturer and he did not have any facilities for getting that data, so we started to help him. Where we found a large concern that had cost accounting, we asked them for their plan and then we tried to work out a standard form so that the small manufacturer could profit by the large manufacturer's experience in that particular industry. We found that as a result of ignorance of statistics many industries were producing more than the consuming public could take. They had stock on hand and they could not sell it. Their plants were not in operation. They were not running to their capacity and labor was not being employed and, of course, they were not making any money. The banks were carrying them waiting for business to improve.

It is a principle of business that sales should precede production. A manufacturer should first sell his product, plan a selling campaign and work that out in detail, and then manufacture according to the orders received. When the sales organization cannot produce orders, the plant is not operating.

The effect on business as a whole of the ignorance of conditions that I have mentioned, was that the larger manufacturer was faring fairly well, but the smaller manufacturer was suffering. The remedies

[fol. 478] which we took up to meet that situation were: We called in many groups of men in different industries and talked with them about their troubles and why they were working under such adverse conditions, and they made suggestions about what they wanted to do. One of them was, if they could meet with their competitors and find out the cost of manufacturing from them and also the standardization of their product, that they thought that would be helpful to them; and we urged them to do that. We urged them to join trade associations in their respective industries. The question of whether or not these people could properly cooperate—I mean competitors—whether they could properly cooperate without breaking the law, came before us and was frequently discussed. We discussed with these gentlemen proper subjects of cooperative work in these trade associations. The Federal Trade Commission put out a bulletin which was widely circulated through all the trades to whom we sent the questionnaire that I mentioned.

Put in evidence Defendants' Exhibit D-371, printed in part in Exhibit Book, p. —.

I wrote a letter to the Portland Cement Association addressed to Mr. Conn, President of the Giant Company, in his capacity as an officer of the Portland Cement Association.

Letter dated August 2, 1916, put in evidence. Defendants' Exhibit D-372, printed in Exhibit Book, p. —.

[fol. 479] I also took up with trade associations of various industries the standardization of their products. We had a report from Germany on their method of standardization of cement, and I think we gave that to the Cement Association. In one of my public addresses I mentioned that fact, that if they were going to be of service to the country, a real service, they should standardize their product and have one kind of cement, so that we would all have a high-grade product. Standardization reduces the cost of manufacturing the product and should be very helpful to the people that are buying it.

We urged that the trade associations ascertain the facts regarding the credit of their customers and compare notes with each other.

Of course, statistics and statistical data was one of the main things. We wanted that in the Government offices for the purpose of guiding our work in connection with the development of industries. We encouraged trade associations to take up this question of gathering production statistics.

At the time I was doing this work, I made some public speeches, one in Boston, in March, 1915, another to the Portland Cement Association, on May 10th, 1916. This is the speech that I delivered to the Association.

Put in evidence Defendants' Exhibit D-375, printed in Exhibit Book, p. —.

[fol. 480] Shortly after that I received a visit from two gentlemen who came down and submitted a plan for the proposed Cement

Manufacturers Protective Association. I remember a plan being submitted, but I would not undertake to recall the names of the gentlemen who presented it. I was at that time seeing many other gentlemen on the same errand. I encouraged the filing of statistics of the various trade associations with the Federal Trade Commission.

About 90 per cent of all products are distributed through dealers. You must cater to your dealers and you must keep in touch with them. You must be of service to the dealer, considerate of him, and keep him enthusiastic about your particular product. You cannot make any discrimination between dealers to whom you sell your product and stay in business. If you do not treat dealers uniformly, it is only a question of time when that matter becomes public among dealers and you are out of business. Dealers are professional buyers and information goes around among them pretty rapidly.

The cash discount is standard in every industry. It is a practice that has developed. If one manufacturer gives a cash discount and he is a very important factor in that industry, of course everybody follows later and it is the general practice and custom. These discounts tend to be the same over the course of years and the same in any given line of industry. That is general and common in all lines of business.

[fol. 481] Cross-examination by Mr. Fowler:

We are now manufacturing electric washing machines, electric ironing machines, and electric vacuum cleaners. We belong to an association, the Electric Association. For six years we were the only people in the business, so we did not have to have an association. After we got about 40 or 50 competitors, they organized a trade association and we all went in together.

Business had been in a bad condition before the time when the Federal Trade Commission was organized and undertook to look into the situation. I presume people were as ignorant before that time as they were then. Of course, with the margin of profit in the early days they did not have to have as much information as they did when competition got very keen, and the margin of profit became materially reduced. In 1912, there was a pretty good profit in business, and in 1913 and in 1914. Then the war came on in Europe. That was one of the reasons for the disorganization of business, but there were other reasons. Business had been bad and business had been good before there were any trade associations. I helped these trade associations after I became Chairman of the Federal Trade Commission. I am one of the gentlemen who made them. The Hardwood Association was not based largely on my recommendation. I am not responsible for that Association.

[fol. 482] Outside of Mr. Morron, I don't know any of the men connected with the Portland Cement Association. Mr. Morron invited me to make the speech to that Association. I had been mak-

ing speeches before that to other branches. I talked to 180,000 business men in the course of a year and a half. Mr. Morron wrote me a letter asking me to go there, and I was glad to accept his invitation like I had accepted hundreds of others. I have known Mr. Morron for a number of years.

Redirect examination by Mr. Stimson:

On an average any industrial over a period of years ought to earn about 15 per cent on the invested capital, making provisions for their expansion and reserves that they should carry, to make provisions for the coming years. It is a speculative game in an industry of any kind, industrials are, and with the good years and the bad they should average that. I do not mean that that should be the limit in any one year. It might go to 20 or 25, and it might go down to 3 or be in red next year. It is the average over the period.

I did not go into the trade association that I spoke of on cross examination until after I came back from Washington. When I was preaching the benefits of trade associations I had never been a member of one at all.

[fol. 483] Recross-examination by Mr. Fowler:

I only advocate trade associations for the benefit of business and for labor. I do not advocate it as a personal matter. I think it is wrong to say that my ideas were purely theoretical at that time—that they were not derived from practice. We made a survey of the situation and we knew this was the remedy and it was the only thing to do at that particular time. There had been trade associations for 25 years. There had been many trade associations. I did not say there had not been any. I cannot recollect the dates, but it must have been about 1906 or 1908 when they started to organize trade associations. But associations have been existing for years, for example, the American Iron & Steel Institute. These institutions exchanged the character of information which was referred to in my speech. They had good trade associations, and I presume they had some bad ones.

[fol. 484] Letter January 14, 1916, from Lehigh Company to its salesman H. B. Shelly, put in evidence. Defendants' Exhibit D-379, printed in Exhibit Book, p. —.

Letter May 16, 1916, from Assistant Sales Manager of Lehigh Company to its salesman H. A. Swett, put in evidence. Defendants' Exhibit D-380, printed in Exhibit Book, p. —.

Letter May 17, 1916, from Lehigh Assistant Sales Manager to its salesman Houser, put in evidence. Defendants' Exhibit D-381, printed in Exhibit Book, p. —.

Letter May 16, 1916, from Lehigh Assistant Sales Manager to its salesman Houser, put in evidence. Defendants' Exhibit D-382, printed in Exhibit Book, p. —.

Letter July 26, 1916, from Central Office of Nazareth Company

to its salesman Hoover, put in evidence. Defendants' Exhibit D-383, printed in Exhibit Book, p. —.

[fol. 485] Letter September 29, 1916, from Coplay General Sales Manager to its New York office, put in evidence. Defendants' Exhibit D-384, printed in Exhibit Book, p. —.

Letter January 31, 1917, from Lines Company of Meriden, Connecticut, to Allentown Company, put in evidence. Defendants' Exhibit D-385, printed in Exhibit Book, p. —.

Telegram February 1, 1917, from Allentown Company to Lines Company, put in evidence. Defendants' Exhibit D-386, printed in Exhibit Book, p. —.

Letter February 1, 1917, from Allentown Company to Lines Company, put in evidence. Defendants' Exhibit D-387, printed in Exhibit Book, p. —.

Letter September 11, 1916, from Pennsylvania salesman Kraetz to Pennsylvania Company, put in evidence. Defendants' Exhibit D-388, printed in Exhibit Book, p. —.

[fol. 486] Letter September 12, 1916, from Pennsylvania Company to its salesman Kraetz, put in evidence. Defendants' Exhibit D-389, printed in Exhibit Book, p. —.

Letter June 12, 1916, from Vulcanite Manager of Sales to its salesman Nennig, put in evidence. Defendants' Exhibit D-390, printed in Exhibit Book, p. —.

Letter November 14, 1916, from Vice-President of Bath Company to its President, put in evidence. Defendants' Exhibit D-391, printed in Exhibit Book, p. —.

Letter May 16, 1916, from Assistant Sales Manager of Lehigh Company to its salesman Fraker, put in evidence. Defendants' Exhibit D-392, printed in Exhibit Book, p. —.

Letter August 15, 1916, from Pennsylvania salesman Widenor to Sales Manager, put in evidence. Defendants' Exhibit D-393, printed in Exhibit Book, p. —.

[fol. 487] Letter August 16, 1916, from Pennsylvania Sales Manager to its salesman Widenor, put in evidence. Defendants' Exhibit D-394, printed in Exhibit Book, p. —.

Letter October 27, 1916, from Sales Manager of Lawrence Company to its salesman Maloney, put in evidence. Defendants' Exhibit D-395, printed in Exhibit Book, p. —.

Letter July 7, 1916, from New York office of Lehigh Company to its Assistant Sales Manager Fuchs, put in evidence. Defendants' Exhibit D-396, printed in Exhibit Book, p. —.

Letter July 10, 1916, from Lehigh Assistant Sales Manager to its salesman Kunkel, put in evidence. Defendants' Exhibit D-397, printed in Exhibit Book, p. —.

Letter July 15, 1916, from Lehigh salesman Kunkel to its Assistant Sales Manager, put in evidence. Defendants' Exhibit D-398, printed in Exhibit Book, p. —.

[fol. 488] Letter February 5, 1917, from Lehigh Assistant Sales Manager to its salesman Morgan, put in evidence. Defendants' Exhibit D-399, printed in Exhibit Book, p. —.

Letter March 1, 1917, from Allentown office of Lehigh Company

to its salesman Morgan, put in evidence. Defendants' Exhibit D-400, printed in Exhibit Book, p. —.

Letter April 16, 1917, from Allentown office of Lehigh Company to its salesman Swett, put in evidence. Defendants' Exhibit D-401, printed in Exhibit Book, p. —.

Letter April 17, 1917, from Allentown office of Lehigh Company to its salesman Swett, put in evidence. Defendants' Exhibit D-402, printed in Exhibit Book, p. —.

Letter March 12, 1917, from Allentown office of Lehigh Company to its salesman Morgan, put in evidence. Defendants' Exhibit D-403, printed in Exhibit Book, p. —.

[fol. 489] Letter March 29, 1917, from Allentown Office of the Lehigh to its salesman Morgan, put in evidence. Defendants' Exhibit D-404, printed in Exhibit Book, p. —.

Letter April 30, 1917, from Lehigh Company to Anibal & Karg, put in evidence. Defendants' Exhibit D-405, printed in Exhibit Book, p. —.

Letter May 11, 1917, from Lehigh Company to its salesman Morgan, put in evidence. Defendants' Exhibit D-406, printed in Exhibit Book, p. —.

Letter August 6, 1917, from Assistant Sales Manager of Lehigh Company to its salesman H. A. Swett, put in evidence. Defendants' Exhibit D-407, printed in Exhibit Book, p. —.

Letter October 23, 1917, from Allentown office of the Lehigh to Mr. F. E. Smith, put in evidence. Defendants' Exhibit D-408, printed in Exhibit Book, p. —.

[fol. 490] Letter June 28, 1917, from Lehigh Company to Mr. A. E. Smith, put in evidence. Defendants' Exhibit D-409, printed in Exhibit Book, p. —.

Letter May 17, 1916, from Eastern Sales Manager of the Lehigh to its salesman Houser, put in evidence. Defendants' Exhibit D-410, printed in Exhibit Book, p. —.

Letter July 17, 1917, from Allentown office of the Lehigh to its salesman Swett, put in evidence. Defendants' Exhibit D-411, printed in Exhibit Book, p. —.

Letter October 19, 1917, from Eastern Sales Manager of the Lehigh to its salesman Swett, put in evidence. Defendants' Exhibit D-412, printed in Exhibit Book, p. —.

Letter January 2, 1918, from salesman of Nazareth Company to J. A. Horner, Nazareth, Pennsylvania, put in evidence. Defendants' Exhibit D-413, printed in Exhibit Book, p. —.

[fol. 491] Letter February 26, 1918, from Mr. Cover, President of Security Company, to Mr. John K. Barbour, put in evidence. Defendants' Exhibit D-414, printed in Exhibit Book, p. —.

Letter March 28, 1918, from Mr. Donohue of the Glens Falls Company to his company, put in evidence. Defendants' Exhibit D-415, printed in Exhibit Book, p. —.

Letter March 30, 1918, from Glens Falls Company to Mr. Button of Brandon, Vermont, put in evidence. Defendants' Exhibit D-416, printed in Exhibit Book, p. —.

Telegram April 1, 1918, from Mr. Donohue to Glens Falls Com-

pany, put in evidence. Defendants' Exhibit D-417, printed in Exhibit Book, p. —.

Confirmation of telegram April 15, 1918, from John W. Ramsay to the Nazareth Company, put in evidence. Defendants' Exhibit D-418, printed in Exhibit Book, p. —.

[fol. 492] Confirmation of telegram dated April 16, 1918, from Nazareth Company to John W. Ramsay, at Boston, Massachusetts, put in evidence. Defendants' Exhibit D-419, printed in Exhibit Book, p. —.

Letter April 23, 1918, from Nazareth Sales Office to J. B. Vandever, Sales Manager New York Office, put in evidence. Defendants' Exhibit D-420, printed in Exhibit Book, p. —.

Letter April 26, 1918, from Sales Manager of Nazareth Cement Company to S. J. Fehnel, Nazareth, Pennsylvania, put in evidence. Defendants' Exhibit D-421, printed in Exhibit Book, p. —.

Circular letter May 1, 1918, from general offices of Alpha Company at Easton, Pennsylvania, put in evidence. Defendants' Exhibit D-422, printed in Exhibit Book, p. —.

Letter August 22, 1917, from Sales Manager of Lawrence Company to R. A. Pruden, put in evidence. Defendants' Exhibit D-423, printed in Exhibit Book, p. —.

[fol. 493] Letter from Inter-Office correspondence of Atlas Company, from Mr. McConnell, Sales Manager of Atlas Company, addressed for attention of Mr. MacFarland, put in evidence. Defendants' Exhibit D-424, printed in Exhibit Book, p. —.

Letter July 31, 1917, from *from* MacFarland to C. A. Kimball and L. G. McConnell, put in evidence. Defendants' Exhibit D-425, printed in Exhibit Book, p. —.

Letter from inter-departmental correspondence of Nazareth Company, May 20, 1918, from J. W. Watkins to S. J. Fehnel, put in evidence. Defendants' Exhibit D-426, printed in Exhibit Book, p. —.

Letter from inter-departmental correspondence of Nazareth Company, June 6, 1918, from F. M. Hoover, of Philadelphia sales office, to S. J. Fehnel, put in evidence. Defendants' Exhibit D-427, printed in Exhibit Book, p. —.

Letter July 9, 1918, from Vulcanite Company to Mr. George J. Bickel, put in evidence. Defendants' Exhibit D-428, printed in Exhibit Book, p. —.

[fol. 494] Circular letter of Alpha Company, July 15, 1918, put in evidence. Defendants' Exhibit D-429, printed in Exhibit Book, p. —.

Letter January 25, 1919, from Mr. McConnell of Atlas Company to Mr. Holman of the Atlas Company, put in evidence. Defendants' Exhibit D-430, printed in Exhibit Book, p. —.

Letter March 27, 1918, from L. E. Browning, salesman of Lehigh Company, to Mr. Swett, Eastern Sales Manager of Lehigh Company, put in evidence. Defendants' Exhibit D-431, printed in Exhibit Book, p. —.

[fol. 495] THOMAS SEWALL ADAMS, called as a witness on behalf of the Defendants, being first duly sworn, testified as follows:

Direct examination by Mr. Stimson:

I am an economist. I hold the Chair of Economy at Yale University. My experience in regard to questions of values and prices has resulted from being engaged in work which calls for that sort of knowledge for a good many years. The first work of that kind was the preparation of tax laws in Porto Rico. From there I went to the State of Wisconsin in 1901, and beginning about 1903 until 1915 was in practically continuous and uninterrupted contact with the Wisconsin Tax Commission and Railroad Rate Commission. For the years 1911 to 1915 I was a member of the Wisconsin Tax Commission. Later I did certain consulting work both for the City of New York and the State of New York. I went then to the Federal Government and served as an economic adviser in the Treasury Department, from 1917 until the close of the year 1921. My work there kept me in constant contact with the large corporations of the country and capital—questions of valuation. I was Chairman of the so-called Advisory Tax Board of the Treasury Department, the statutory board, for part of that time, and in rather constant attendance on the Committee of Ways and Means and the Senate Committee of Finance in the framing of tax legislation. I [fol. 496] was one of their economic advisers, and after those laws were framed I remained the economic adviser of the Treasury Department in respect to their administration. I was retained by you approximately the first of March to look into this case, and since that time have given some special study to prices. Even more recently I have been retained by the National Chamber of Commerce, serving on one of their committees on trade associations for a time. The effect of competition on the prices of different classes of commodities at different times and places, has been a subject to which I have given considerable thought and study for a number of years.

A standardized commodity in the usual acceptance is one of uniform quality in which the ordinary purchaser would have no preference for one unit over another unit. He could use them all indifferently. For all practical purposes there is a unanimity of opinion among economists that with a standardized commodity and conditions of effective competition there is the strongest sort of tendency to uniform price. That opinion is practically unanimous. I have made my own observations and also studied the opinions of other authorities. Some of the authorities who hold the view that I have just expressed are:

[fol. 497] John Stewart Mill, the English economist.

W. Stanley Jevons, an English economist who is particularly familiar with this sort of question.

Francis Waker, the American economist who was in charge of the United States Census, President of the Massachusetts Institute of Technology and Professor at Yale.

Professor F. W. Taussig, Professor of Economics at Harvard, formerly Chairman of the Tariff Commission.

Professor E. R. A. Seligman, of Columbia University.

Professor Seager, of Columbia; and many others.

The books which lay down that principle of economics include:

Jevons' "Theory of Political Economy," a standard word, page-98 and 99.

Taussig's "The Principles of Economics," page- 146 and 147.

Seligman's "Principles of Economics," page- 234 and 235.

Professor Arthur T. Hadley's (of Yale) book on economics, page 82.

John Bates Clark's "Essentials of Economic Theory," page 99.

Francis A. Walker's "Political Economy," page 95.

Gide's "Political Economy," translated by Archibald, page 222.

[fol. 498] Richard T. Ely's "Outline of Economics," page 158.

Also Bullock on "Introduction to the Study of Economics."

Knight on "Risk, Uncertainty and Profit."

Carver on "Principles of National Economy."

Taylor on "Principles of Economy."

Seager on "Introduction to Economics."

Turner on "Introduction to Economics."

A. W. Flux on "Economic Principles."

Mill on "Political Economy."

Fetter on "Economic Principles."

One ground for the principle that with a commodity of standardized grade in the presence or existence of effective competition there is very strong tendency to uniformity of price, is that it is difficult to see how a different result could be obtained. Competition, if it is effective, implies real and genuine knowledge of prices that are being asked by various sellers. If the dealers or buyers take the trouble to acquaint themselves with market conditions and know the prices that are being asked, it is difficult to see why a man should buy at a higher price when he knows he can get a lower price. And except in very exceptional circumstances he will not do it; he will shop around, look, use market reports, use price lists from the companies, until he finds out where the price is cheapest. That brings buyers to something approaching a common determination [fol. 499] and understanding of the situation. The sellers are also getting similar evidence. The consequence of it is that a uniform price tends to be produced.

A second reason is the evidence of what happens on the stock exchanges. It is very evident, there, that in normal days the prices are tending towards a common center and these prices so established are used habitually. I have used them habitually for the purposes of appraisal, for the purpose of inheritance taxation. There is the tendency of prices to become the same and to establish a market price which is used daily in thousands of the most important uses.

Again, these market prices get fixed in the current price publica-

tions, such as Iron Age or the Urner, Barry Market Reporter, and contracts come to be fixed on the basis of these market prices as printed in Iron Age and a great many open contracts are made among many lines of industries which simply provide that the settlement shall be made on the basis of the market price fixed in Iron Age or the Urner, Barry Market Reporter.

All those things tend to confirm the opinion of these economists that where competition is present and active, it will tend to come to a common price.

A uniform price that is fixed on any exchange frequently lasts for but a very short period—at a particular time it may last only a few seconds, perhaps. But where the trade is naturally more stable; where the competition is between dealers, you not only get the same uniform price, but the price is likely to show its uniformity by staying uniform over a period of time—it is more easily seen. A [fol. 500] market which consists predominantly of dealers as the buyers, tends towards a condition of uniformity of price quite as strongly as an open exchange like the stock exchange, and in some cases I sometimes think even more strongly. Dealers are usually alert, usually informed and active, and in the very nature of things prices cannot change so rapidly as they do in a speculative exchange market. The consequence is that this tendency towards a uniformity even shows itself more clearly there than it does on the stock exchange.

Consumers as a rule do not take the trouble to ascertain all the conditions as accurately as dealers, men who have to make their livelihood from selling; they have to buy, in the long run, as favorably as their fellow dealers or competitors.

The tendency towards uniformity is, I should say, rather more often than not disguised. Commodities are sold, for instance, in different shapes and sizes; some of it is sold under contract, some sold spot. There are different terms, according to the industries and the sizes of shipments. Those things are differences in standardization. I mean, for instance, if you have to go to the books of the company at any time to get the prices, there may be a uniform price and you may not see it, because a great deal of the stuff may be going out on contract at a price fixed a long time ago. The difference in size usually affects the compensation.

[fol. 501] There is usually a difference in price for carload lots and less than carload lots. There are a thousand and one things which will disguise the true uniformity.

In industries having a heavy investment in plant or heavy invested capital, that heavy investment tends more certainly to bring about uniformity of price and show it more clearly. It is a commonplace among business men that where there is a very heavy investment and fixed charges, competition is likely to be particularly ruinous at times, particularly harmful—you can start cut-throat price wars. Heavy fixed expenses have to earn interest, and it pays them under heavy competitive struggles, rather than to have no business at all, to cut right down, get any price over what accountants frequently call the prime costs of what they are selling.

The consequence is that in a number of industries where the fixed investment is heavy, the competition has at some time been particularly harmful in the trade, and apprehension of the effect of price wars is a most important element in bringing about price uniformity in many industries. Men dread to upset things, to start a war, for the same reason that, on account of the world war, the world at the present time dreads to start war again—we have had a taste of it. You let a situation stand as it is in order simply that you may not precipitate a conflict which past experience has shown you to be very damaging.

[fol. 502] There are other factors which tend in particular industries to bring about and emphasize and show uniformity. One of those things is the custom or presence in a trade of cancellation, of permitting people to take or reject goods that they have ordered on contract. That will tend to bring about uniformity. That custom exists in a large number of trades. In the garment trade in particular, it is the usual custom to permit the man who has ordered goods on contract to break the contract, practically not to take the goods in case the market goes down. That has a very marked effect in insuring uniformity in prices. Very obviously, if the seller, the producer, the manufacturer, knows that the man who has bought from him can cancel the contract without any penalty, when he discovers that he hasn't got as good terms as he might have gotten from somebody else, it puts a particular pressure on the producer to grant the lowest terms in the first instance. It makes the market more flexible and that flexibility certainly tends to uniformity.

Another very powerful force making towards uniformity is imitation. Men do to a very large extent what their competitors are doing. If the competitor is an influential producer who has considerable means of understanding market conditions, there tends to be the "follow the leader element" there, which tends to bring about imitation wholly apart from anything in the nature of a [fol. 503] conscious agreement among the people. Those are some of the principal factors, I think, that tend to make this principle an actuality.

I have made a study of various industries in which this principle of the tendency towards uniformity at a given time and in a given market is at work. The uniform price is found in many industries. There is a uniform price in the salt market, for instance, in the City of New York. Salt is sold generally in the wholesale market at a substantially uniform price. There is uniformity of price in the sale of crude oil, has been and usually is, in the Kansas-Oklahoma field. In naming those two industries I was rather careful to specify the crude oil industry in the north central states, because I tried to fortify myself on this particular point by getting, for instance, the assurance of studies by the Trade Commission that competition did exist in those industries in those years. In my studies, I have very carefully abstained from mentioning any industry in which I believed there was anything in the nature of agreement or where I believed competition did not exist. There is uniformity

in price in some of the commercial fields—the corn-gluten field in particular, there is almost a complete uniformity of price as a rule. There is uniformity of price as a rule in the sale of wire nails; in [fol. 504] the sale of wood screws, also. There is a uniformity of price in the sale of sulphur, brimstone, crude. There is uniformity which extends even to retail articles, such as a standardized textile, for instance, percale; that will sell at a standardized price not only in the various establishments or stores in many cities, but the price may frequently tend to be uniform as between various cities. This tendency to uniformity will affect the sale of a thing like bread, for instance, so that you will get a uniform price for a so-called large and small loaf for 5 and 10 cents. That is not absolute uniformity—there is no absolute uniformity that I know of—but I suppose 90 per cent of the bread is sold at 5 and 10 cents at least, if not more. Many other industries could be named in which there is a substantial uniformity of price.

I have made a study of trade practices in the various industries. According to my observations there has been an evolution towards similar trade practices in the different industries. The question of trade practices, particularly those trade practices connected with price, is very much like price. The better producers, the better sellers, who are wide awake and alive, know what are good and what are bad trade practices, and if some competitor establishes what is to the producer or seller a favorable trade practice, when market conditions are stable and you are in a seller's market, the other [fol. 505] producers tend to get the same privilege. On the other hand, from the standpoint of a dealer, when you are in a buyer's market, the dealers have their own opinion of what trade practices are favorable to them and try to get the best trade practice that is available. All that tends to bring about uniformity in the same way that competition tends to bring about uniformity of price. This evolution is the result of competition, I think, most distinctly. It may not be. I don't mean to assert that it always is, but there is a tendency through competition towards this evolution.

The question of padded contracts is common. In the wire nail industry, men frequently duplicate their orders for wire nails under contract. They have the right of cancellation or refusing to take, and it is very unusual for an attempt to be made to enforce a contract. A similar situation arises in the garment trade, where a buyer may over-buy with different sellers and it leads to great waste and great abuse—manufacturers are likely to over-produce, produce two or three times to meet the same demand. In times of a good market, high prices, the putting in of duplicate orders or padded orders for flour was common at one time. Its effect is the bringing about of over-production, in the sense of the over-production of a particular order. For instance, in the garment trade it is obvious that if a man buys more than one size and means to cancel, somebody is making up goods that you can't sell and can't use. The [fol. 506] thing is a recognized trade abuse, and I don't think I ever heard anybody attempt to defend it. There have been studies

of the subject by such departments as the Bureau of Foreign and Domestic Commerce; in various reports they have commented on it, the efforts to cure the evil in many trades. Almost any week you will see some effort made to correct these things in the newspaper. Such practices tend to great economic harm and any fair remedy to put an end to them is altogether beneficial.

As to the tendency towards uniformity in trade practices, the harm or benefit depends on the cause of the uniformity. Many of these things start with trade abuses and abuses that would be acknowledged to be abuses by everybody, and those are generally eradicated by important trade practice and by the terms becoming standard by reason of the necessities of the industry. There is the automobile industry, for instance. Most cars almost universally until the recent drop in prices were sold for cash. So in many, many industries terms come to be standard simply by the action of those competitive forces which brings about the uniformity of price in other industries.

Now, I do not mean to say, and I do not want to be understood as saying, that all these uniformities that come around are a good thing. You get uniformities such as espionage, industries prying on one another for information that is necessary for intelligent [fol. 507] action. That is an abuse that may get to be a custom in the trade, and it is a bad custom. But the uniformity itself frequently—not always but frequently—tends to come about in important trade practices by the action of competitive forces, and very, very frequently that uniformity is a helpful and wholesome thing.

The effect from an economic standpoint of knowledge as to the conditions of your competitors, as to statistics particularly, is essential to effective competition, and in general it is highly beneficial. I think, to the trade, bringing about the most effective competition in an industry. Perfect competition cannot exist without a very considerable knowledge of prices, production, and such information is currently published, of course, by practically all governments—published by our Government in considerable detail. For instance, the so-called survey of current business published by the Department of Labor, carries information concerning production and capacity among many industries. I notice, for instance, that as to knit goods they not only publish the statistics of production, sales and shipments, but also accompany that with a comparison with the normal production, and so on. The Department of Agriculture, of course, is constantly getting out information concerning conditions of production, in order that producers may guide themselves intelligently [fol. 508] and not suffer loss through over-production at the wrong moments. That is a function of Government which has been growing universally for the last 20 or 30 years. The great evils which result from lack of information, from instability, from failure to estimate an advanced demand, and that kind of thing, are universally recognized. It exaggerates the entire so-called cyclical movement, the undesirable depression, the feverish activity again. Ignorance of condition accentuates that.

[fol. 509] The relationship between a buyer and seller is one of competition, trying to get the commodity at the lowest price possible. Competition is a rivalry, a race. The information and knowledge needed is knowledge of the conditions of competing sellers and buyers. You have got to get knowledge; you will get it in some way, one way or another, unless you are of the ineffective kind that gets weeded out pretty shortly. Espionage—spying on other people's plants and getting intimate details of their business—comes from the lack of legitimate recognized machinery for getting knowledge that people ought to have. Many of the best trade do not have trade newspapers. Some have and some don't—the condition of information differs in the different trades.

My experience in connection with corporation taxes, both the formulation of the law and its administration after it had been passed, goes back at least to 1904. Even before that time, I was interested in these questions of valuation and prices and had done considerable work in that field. I have given the subject of a fair return on invested capital by industrial and manufacturing companies considerable thought and have had unusual and rather unique opportunities to know intimately the profits that companies earned—I don't know anyone who has had greater opportunity. I have examined intimately and have had important questions to decide with respect to the income accounts, income returns of the larger corporations in the country, for years. I have had great opportunity to test whether the returns made by manufacturing corporations to the Government for the excess profit tax are conservative estimates of the real invested capital of those companies. They are conservative and I think for rather obvious reasons. The whole definition of invested capital in the Federal statute is one which makes it necessarily conservative. All the figures, for instance, go back to the original investment. In a study which I made covering thirty to forty thousand manufacturing corporations, the invested capital as returned for the purpose of Federal taxation was only about 91 per cent of their book value. That would practically follow from the language of the statute even though you had no statistics. As to this, invested capital is based upon actual cash paid in for the values of properties at the time they were acquired by the corporations, less depreciation since that time; and as prices have very obviously risen since most of the corporations in this country were organized, it is practically certain that the figures returned for invested capital are very substantially less than the reproduction figures at the present time.

In years in which a manufacturing company is in a position to earn profits it should earn at least 12 per cent on its invested capital—and I want to say that that is based to a considerable extent on the figures that are earned. After all, what corporations earn in the long run and in large numbers is a pretty good indication of what is normal. For instance, national banks in this country for 45 years earned on an average for all of them 8.6 per cent. Now, obviously, with the risks and hazards of the manufacturing in-

dustry a fair return is more than that and I have placed 12 per cent for manufacturing industries as a minimum because quite extensive studies made by me have convinced me that the average [fol. 511] manufacturing company cannot in the average year distribute more than two-thirds of its earnings, and I think in order to keep its securities at par—two-thirds of 12 per cent is 8 per cent—considering all the risks and hazards incident to a business, 12 per cent is a very fair figure. That is confirmed by studies—also pretty wide studies that I have made—concerning actual earnings of corporations in a typical year; and corporations in normal years—not in particularly good years—will earn on the average, those that are earning money at all, typical corporations, 12 and 13 per cent. In the good years we have been having recently manufacturing corporations were averaging, those that were earning money, about 20 per cent before the taxes are taken out, that is something in the neighborhood of 14 per cent after the Federal taxes are deducted.

1914 was not a good year and was a bad year from the standpoint of profit. The net income of the corporations in the country returned for the purpose of Federal taxation went up from something over five billion dollars in 1915 to considerably over eight billion dollars in 1916—it was a rise of something over 60 per cent, taking the country as a whole. The profits of the corporations in this country in 1916 were considerably over twice as much as in 1914. 1916 was one of the best years in the history of the world from a standpoint of profit and business generally.

The index numbers used in the chart in the Federal Reserve Bulletin from about 1825 to 1863 were based upon the index number [fol. 512] that was prepared under my direction about 1907. An index number is simply a very simple device for showing the average change in prices. It has been the usual thing recently to take 1913 as the base year. Suppose you are comparing 1913 and 1920 and suppose the price of wheat between 1913 and 1920 went up 30 per cent. We put that down originally as wheat 1913, 100; wheat 1920, 130, keeping the full percentage. Suppose corn went up 20 per cent in that interval. We would say corn, 1913, 100; corn, 1920, 120. Now the average of corn and wheat there, the average of 30 per cent rise and 20 per cent rise is a 25 per cent rise. So the index number based on those two commodities would be 125 for the year 1920. Of course you don't stop with two commodities. These figures for the most part in recent years have been based upon considerably over 300 commodities. Of course, in taking those percentages, they take the weighted average.

There usually comes with war, of course, great disturbances in money and currency. Those things tend to bring about changes in prices which originate with money. There is a great big fundamental underlying cause tending to change practically all prices, due to increase in the volume of bank credit, increase in paper money, a variety of factors, which rather roughly are referred to as inflation. The essential point about it all is that there is a general funda-

mental factor working on all prices and tending to make them move in one direction. Of course, in particular industries there are forces that work slowly, but there is this big, main cause at work tending [fol. 513] to produce one uniform result. It arises out of those things associated with the financing of wars. The explanation of it really is the raising of enough money. It has to be done by inflation, I think personally.

Cross-examination by Mr. Fowler:

I did not personally have anything to do with preparing the chart Defendants' Exhibit D-285. I do not recall a war in 1844. We had the Mexican War a little later, 1846 or possibly '48. Polk was President, anyway. I don't know that there is anything the matter with the chart Defendants' Exhibit D-285 with reference to that Mexican War. Around 1840, up here (indicating), you got an increase. There is a good deal more increase between 1850 and 1860—some 30 to 40 higher. That war does not seem to have had much effect on inflation. That was not much of a war. The army was in Mexico for some considerable period. I do not recall how long. I should not be surprised if the war lasted something like two years. War is always a burden, but there are comparisons. The Mexican War was not a very heavy burden on the country in comparison with the Civil War. The Mexican War wasn't a very costly war to the United States with respect to the wealth of this country at that time, as wars go. It was enough to have some effects, unquestionably. I think that some of the effects of that are indicated in this rise here (indicating). Moreover, you have got to recall that you were on a strong downward slant from the panic of '37, one of the worst, if not the worst panic this country ever sustained. War did not bring that panic on [fol. 514] at all. I recall no war in Europe that had to do with the panic of 1837. The panic of 1837 was one of the worst panics this country ever passed through—certainly very, very destructive—bad. It is very difficult to determine the exact causes of those panics. We had another panic in 1893. It began in 1893 or the very last part of 1892. We had a war also in 1898. The war in 1898 here (indicating) was simply stimulating the general upward movement that was going on there (indicating) and did take place. Prices were lowest at 1896 and started up before the war came, by their own obedience to general recovery, and were pushed along a little by the Spanish War. In one end of that chart there is the World War and in the other end of that chart there is also practically a World War.

I obtained my information about the earnings of corporations from the records and reports made by corporations to the Treasury Department, largely, and from other sources. Those earnings were based on the original investment, less depreciation, plus all earned surplus accumulated since the organization of the company. They were estimated upon a smaller capital than the corporations claimed the capital to be at the time the payments were made. Still the ratio of their net income, Federal taxes deducted, to their invested

capital, was something over 14%, estimated upon statutory invested capital. I have expressed an opinion that one of these industrial corporations should earn about 15%. I stated that the National banks earn 8.6%. I stated that about all that industrial corporations can distribute as an economic proposition is two-thirds [fol. 515] of the net earnings or net profits, and their dividends would be about 8%. They ought to be able to distribute something like 8% in the years they are earning profits, because there will be some years they cannot do it. Some years there will come depressions in business when they cannot distribute anything. Banks generally declare about the same dividend every year, while the industrials go up and down, and hence if they pay a dividend one year of 8%, the next year it might be 6, or possibly in a real flush year it might run over 8%. So I am averaging it up at about 8%. The character of the information furnished through the Agricultural Department includes information concerning prices, concerning particular perishable products, concerning shipments, amounts on the way to market, stocks on hand, forecasts of future crops, harvest conditions as affecting probable supply in the future, at times even information concerning demand. For instance, there was a recent publication by the Department of Agriculture relating to the watermelon crop, in which the Department advised watermelon planters that it looked as if an excessive amount of acreage was about to be devoted to watermelons and that it would be advisable not to plant so much to watermelons this Spring. They tried to prevent pro-[fol. 516] ducers from overglutting the market and losing money. The Government publishes that to the world, to the purchaser as well as the seller. It gives the information to everyone indiscriminately. The Government makes a special effort to ascertain the conditions of the cotton crop and the information obtained is kept secret until it is given out to the whole world—the cotton producer and the cotton purchaser alike.

I did not mention an effort to get men engaged in the same business to estimate the cost of production properly. The effort is to instruct each individual in order to enable him to make a proper estimate of what it cost him to produce that particular article. I have had practically no experience directly with trade associations. Of course I belong to a sort of trade association, the College Professors' Union, so-called, an association of college professors. There are certain things these trade associations may do that is entirely proper, in my judgment; and there are other things they can do which are entirely improper. If the members of a trade association were to fix prices on the articles they were producing, that would be improper. If either directly or indirectly an agreement is consummated to fix prices, I think that is a very improper and highly unlawful thing. I did not mention the brick industry among those to which I referred in speaking of the trend towards uniformity of price. The brick prices in certain cities, from all the information I have been able to derive, tend to be uniform, and in other cities they [fol. 517] do not. I have heard it asserted that that is because those

brick dealers belong to associations and fix prices. I don't know whether it is true or not. I have become highly distrustful of that kind of thing and have tried to make my examinations careful and in detail. I did not pursue the inquiry into the brick industry, because so far as I was looking for convincing illustrations, I tried to get industries that were free from suspicion. Some of those I mentioned as free of suspicion were the commercial feed industry, the corn-gluten product, fertilizer in the South in certain territories, crude oil in certain territorial markets, and gasoline in certain markets. The Corn Products Refining Company manufactures glucose. It produces a large proportion of the corn-gluten feed that is sold, but then there is the best evidence that there is competition in that industry, live competition. I am speaking of the time since the decision concerning the Corn Products Company in the United States courts. One concern manufactures a large part of the corn-gluten feed, but there is always some largest producer, and I don't think that explains the situation. The fact that one concern manufactures more than half of a certain product does not bring about uniformity of price. For instance, in the steel industry there have been marked differences in prices charged by the United States Steel Corporation and the independents, in some instances. Marked uni-
[fol. 518] formity existed at some times, but disappeared at others. In some parts of the steel industry there is a uniformity of prices in the sense in which I have been speaking. The steel industry is stabilized. I did not have in mind the hollow tile or tile industry specifically. I knew that that Association of the tile industry was under attack and I did not want to introduce that. I did not mention gypsum, and I don't know from my first hand knowledge whether there is a combination there or not. I know it is asserted that there is. I know that in very recent years there are a great many of these industries that have organized themselves into trade associations. Trade associations existed for many years. I have seen some accounts which say there are 7,000 of them. Some of them have been very old. The Stove Founders Association, to my personal knowledge, was in existence much more than 15 years ago. Some of the older associations have had all the activities that have been under discussion. Typothetae, for instance, is quite an old one. It is an association of manufacturers—of printer, and so on. It was in existence in the later nineties and to-day. I know they are under investigation now.

[fol. 519] For standardization, for the purpose of which I was speaking, it is only essential that the article should be of such uniform quality that the purchaser is willing to take one unit or another, so that he has no object in seeking particular kinds, and so on. Corn is sold by grades, so that the individual buyers do not have to get together over particular lots and haggle over that thing, but will take any corn so graded, as a rule. Of course, when goods are standardized then the customer is not particular as to what item he gets, whether one bag of cement or another bag of cement. If a customer can get one bag of cement a little bit cheaper than

another, he will naturally take that one. That is one of the principles of political economy. I would say it is common sense.

The effect of brands is largely to disguise and prevent competition. When you get a standardized article, competition is concentrated on price, and every man has got to meet that price. Business in some lines attempts to disguise competition and get around it by manufacturing all kinds of brands.

Standardization where the quality of the goods is exactly the same, does not mean, of course, that those goods cost the same to produce. One plant may produce an article at much less cost than another plant. One could sell at a less price and still make money. He could do it. He won't do it. Where there are half a dozen manufacturers and one can manufacture at a less price than the others, I [fol. 520] don't think he can sell his goods at a less price so as to sell his entire output. I do not think that is the way the thing works out. He comes in and offers perhaps to sell a little lower than the other people, but that is known and the other fellows have to meet it. If the high man undertakes to meet it down to a point where he cannot stand it, he has to quit. There are always people forced out of industry because they cannot meet the prevailing price. They are not failing every day, but are finding they cannot stand the gaff, cannot meet the competitive price, and are just giving way. That is the natural result when competition is free, I think. In the supposed case of the six manufacturers manufacturing at different costs, they meet together with buyers and eventually, by ways which I have described, a common or uniform price tends to be established. Then everybody who can get within that price gets within it and sells as much as he can. Some can get within that price and sell a great deal, and some cannot sell so much and get within the price. Some think they can get within the price, and because they have poor cost accounting are not really within it, and are losing money, and die in time. So that naturally the price adjusts itself in the long run to cost plus a normal fair profit. The fact that prices are uniform may be evidence of either thing. Occasionally agreement results in uniform prices; occasionally a monopoly and agreement [fol. 521] result in diverse prices. Whether the fact that prices are uniform is evidence of competition, is a question for the lawyers as to what is evidence, but both competition and agreement do tend to result at times in uniform prices. I think, from an economic standpoint, no fair inference can be drawn either way from the mere fact of uniformity in price.

The Court: Do you mean to say that you think from an economic standpoint no fair inference can be drawn either way from the mere fact of uniformity in prices?

The Witness: From the mere prices, your Honor, I do not think any inference can be drawn. You can go back into the circumstances of the industry to determine it.

Q. Let us see about that, doctor. Suppose you know of a number of manufacturers in a certain industry whose cost of production is different, substantially different, and who have the capacity to

overproduce. If they were all running to full capacity there would be a very considerable overproduction, and suppose there is absolute uniformity running for some years through their prices, uniformity in every respect, do you mean to say that does not mean anything at all?

A. I think you forget in your inference the fact that the increasing production in many lines usually means higher costs. That is not an absolutely uniform but a very frequent fact. I should say it is very often the fact. For a given period of time if you increase your production you may be able to reduce your costs, but the point is reached where if you push your production past a certain point, you increase them.

Q. Take a number of manufacturers in the same industry, manufacturing 90 per cent or more of that particular product, their cost of production is very substantially different.

A. All of them together manufacturing 90 per cent?

Q. That is what I mean. They have a capacity to produce a great deal more.

A. At what cost, sir?

Q. I don't care anything about the cost now.

A. All right.

Q. I say the difference in cost of production by these factories is substantial, and they have the capacity to produce a great deal more than is consumed, and yet suppose their quotations or prices and the prices at which they will sell their products, are exactly the same extending over some years, that their rate of discount is exactly the same, that the price on returned bags is exactly the same, everything is uniform, do you mean to say that does not mean anything?

A. I think it may mean anything. It may mean the most perfect competition. As I see the situation, competition is a game, a race, and races frequently result in dead heats, and the competition is active when they are doing that.

Q. What kind of competition?

A. Competition to get ahead of your competitors.

If no one of them offers to sell his product under the others and yet their costs of production are entirely different, and they can all produce a great deal more than the market will demand, that does not necessarily mean anything. The ordinary fact in commerce that happens a million times a day, is that people with cost of production greatly different are nevertheless going out and offering things at substantially the same prices. I do not offer to sell what I have for [fol. 523] less than somebody else merely because it costs me less than somebody else. When it is necessary to sell his product, a manufacturer may sell under his competitors when he can do it within his costs at times. The only practical question involved is whether the other fellow comes around and meets your price. It will eventually come to an equilibrium. That will be disturbed in time by new factors in the market and changes will occur. In the case of stocks on the stock market, the value of stocks are determined by the prospective prosperity of that particular case, and that gives it a speculative, quivering element that you do not find in some other dealer markets, so called.

Redirect examination by Mr. Stimson:

As to the tendency of prices in cases where the cost of production of the different competitors is different, when the demand in a given market is equal to the supply the price set by the man with the highest costs is the one which regularly governs the market. I have never known cases where a man would sell his goods for a lower price than his competitors offered them where he does not have to, where the demand is sufficient. Of course, I want to make one exception, I think there are times of extremity and distress when the general trend may be to profiteering and a very fine principled man may say, "Here, that is too much." But that is not ordinary.

[fol. 524] Where some concern or individual encounters necessities more severe than those of his competitors, that man may be forced to break a market. He may be running along with the price level and forced to sell an unusual amount and he may reduce the price. He is likely to be followed by his competitors. You get those price changes in all industries. It depends entirely on the character of the market. The necessities of producers always tend to influence their production and selling policy. The elements which enter into the decision of a manufacturer as to what he will do in such a case are his knowledge of what the general situation is and his expectations of what it will be.

Where there is an adequate demand the price is fixed by the producer with highest costs. Everybody else will bring his prices to the same level because he knows that he can sell at that price. That means the more efficient producers will make higher profits. It is commonplace. For instance, the price at which wheat is selling in the New York market is not governed by whether a seller has to pay a dollar a bushel or 50 cents a bushel to get it there. It depends on the market. The man who only has to pay half as much as the other gets that difference.

I do not think there is any doubt that the cooperative efforts of the trade associations are helpful to the small producers. In many trade associations the big producer does not enter at all. He stays out. In cooperative associations the small man always gets assistance, information has to be procured, things done, and he shares the cost with other people.

I am not under the impression that the trade association is an exceedingly recent thing. I am under the impression that trade associations have been developing in very considerable numbers in the last 15 or 20 years. I heard of one the other day which celebrated its 50th anniversary.

In regard to the fact that among a number of competitors the man with the highest costs may have to go to the wall or go into bankruptcy, where you bankrupt a big cement factory or a big railroad, it does not go out of existence, it is reorganized. The plant remains, and it may be, and frequently is a competitor of the cut-throat variety while it is in bankruptcy. I do not think any legitimate business men want to put competitors out of business. They do not want to cut their throats. They simply want to get their business. There

is a difference between the kind of competition that is aimed actually to strangle another man and competition which is aimed in good faith at getting the business if you can. There is a very important line there. Competition is an effort to get the other man's business by offering attractive terms. It is the getting of the business that constitutes the principal end of the competition. When you are trying to find out whether two men are competing or not you try to find whether they are down there after the same jobs, the same contracts, whether they are trying to get the same work.

When I spoke of certain matters as of economic benefit or harm, I was speaking primarily from the standpoint of the public of the [fol. 526] general welfare. Instability of business, violent fluctuations in prices and profits mean in the end great losses, which in turn become high costs, and the community and the producer pays for it in the long run.

Letters Defendants' Exhibits D-435 to D-454 put in evidence. Printed in Exhibit Book, p. —.

[fol. 527] RICHARD K. MEADE, called as a witness on behalf of the Defendants, being first duly sworn, testified as follows:

Direct examination by Mr. Porter:

I am a chemical and industrial engineer, educated at the University of Virginia and at Lafayette College. My first position in the cement industry was with the Edison Company as Chief Chemist. That was about 1900. I left them to become Chief Chemist and Assistant Superintendent of the Northampton Portland Cement Company. That company has since gone out of existence. From there I went to the Dexter Company as Chief Chemist. I left the Dexter Company to open consulting offices at Allentown, Pennsylvania. While there I had charge of the chemical work of the Allentown Company and advised on various construction problems. I was consulting engineer for the construction of the Tidewater Portland Cement Company at Union Bridge, Maryland, and had entire charge of the construction of that plant. At the completion of that construction work, I was General Manager for a year. I then opened offices in Baltimore as a consulting engineer, making a specialty of lime, cement and plaster work, the design of mills, the operation of the mills, and reporting on deposits of raw material. That was [fol. 528] about 1912. Since then I have acted in a consulting capacity for various companies, Alpha, Bath, Hercules, Giant, Kosmos, Louisville and Clinchfield.

I have been frequently called upon to estimate replacement costs or costs of construction of cement mills and plants in many respects similar to cement mills, and I have frequently made appraisals of cement plants. In addition to my experience with certain of the defendant companies as a consultant, I have within the last few months personally inspected all the mills of the defendants in this case.

The raw material of the Dexter and Nazareth Companies is particularly well adapted to the economical manufacture of cement, in that the rocks just as they are taken from the quarry are of suitable composition, by proper blending, to make Portland cement without the addition of any other material except the gypsum, which is added after the cement is burned. A great many of the other cement companies have to bring in limestone to mix with their cement rock. The companies which have to employ shale use limestone. These conditions have a very appreciable effect on the cost of manufacturing. The cost of manufacture at the Nazareth and Dexter mills is less than at many other mills.

The usual basis used in appraising the value of rock deposits of [fol. 529] cement companies is the number of barrels of cement that can be made from a given deposit. From half a cent to a cent a barrel is a conservative value.

If a cement mill is well built, its value can be determined with approximate accuracy from its capacity. The Government's Exhibit No. 387 is an estimate of the capacity of the defendants' mills made by me. The estimate is based upon a 300 day operation.

I have made an estimate of the value of the defendants' properties in this case, in the year 1919, taking into account the value of the plant, the raw material and the working capital. The working capital I took was that shown in Defendants' Exhibits Nos. 277 A to S. The value of the rock deposits I took from Defendants' Exhibits Nos. 275 A to S. This sheet shows the estimate that I made of the value of these properties in 1919.

Put in evidence Defendants' Exhibit D-455. Printed in Exhibit Book, p. —.

The total value, as shown by the exhibit, was \$151,662,256.09. That figure compares with the total invested capital as reported to the Government in Defendants' Exhibits 271 A to I, of \$73,974,732. In my estimate, I included only the mills of the defendants mentioned in this indictment and allowed 25 per cent from the replacement value in 1919 for accrued depreciation. The three items entering into that value were, separately, value of the plant \$117.- [fol. 530] 771,960, working capital \$15,837,232.09, value of rock deposits \$18,053,064. I used three-quarters of a cent per barrel in putting that value on the rock deposits.

In valuing the plants, I multiplied the capacities shown in Exhibit D-387 by a unit figure. This unit figure represented the cost of building a cement plant of the same general character in the year 1919. From that figure I deducted 25 per cent for depreciation. The unit figure I used was \$3.79 per barrel annual production, before deducting depreciation, or \$2.84 with the depreciation off. That figure of \$3.79 was arrived at from data showing the prices of labor, material, machinery and other items entering into the expense of constructing the plant, and from estimates and so forth which we had. It is quite a common method of estimating the value of a cement plant.

In estimating the capacity of these plants, I based the estimate on

the size of the kilns as shown in Defendants' Exhibits 276 A to S. A kiln of a certain size, under average conditions, will produce so much cement, and capacity means capacity under those average conditions. Under other conditions that kiln may produce more or less. If the rock is a very good rock, you may be able to burn more. If the rock is hard, you may be able to burn only a smaller quantity. My estimate of capacity based on the size of kilns also assumes that the mill is a balanced mill.

[fol. 531] The figure of 25 per cent depreciation that I used was arrived at after my personal inspection of all these mills. I think it is a conservative average figure. Some mills ought not to be depreciated as much as 25 per cent, and some ought to be depreciated more.

Cross-examination by Mr. Fowler:

As to the value of rock deposits shown in Defendants' Exhibits 275 A to S, I don't know the number of acres. The exhibit does not show that. The exhibit does not show how thick the deposit is. The exhibit shows the number of barrels that will be produced from that deposit. It takes approximately 4 cubic feet to make a barrel of cement. That means that 4 cubic feet of rock will make a barrel of cement. That would be about 7 barrels to the cubic yard. I made no investigation whatever as to the extent of these rock deposits. That information was furnished me on that exhibit. Approximately, 1 acre for each foot in depth will make 15,000 barrels of cement. 50 feet in depth would be fifty times that. The depth varies in different deposits. You may have some deposits that are only 6 feet deep, and you might have some that are 600. The geological estimation of the Lehigh Valley cement rock is 600 feet deep. I do not know how much the Lehigh actually paid for the land it bought. I don't know how many acres they own. I don't know a thing about that. I don't know of any deposits that are for sale. I know where the Lehigh land is located—a great deal of it. I have not made explorations to see how far these deposits extend. I know from explorations in similar plants in the Lehigh Valley that the rock goes to quite a depth.

[fol. 532] The area of the Lehigh Valley extends from about Reading, Pennsylvania, to Martin's Creek. Geologically, the cement rock is a transition rock between shales of the north and the Kittatinny limestone and part of the Trenton formation on the south. At some places it is very much thicker than others, and some places it pinches out altogether. You cannot go forward between Reading and Martin's Creek and pick it up. Some of it may be on the other side of the river. There are some deposits outside the lands of these particular companies, but I don't know of a high grade deposit that is not owned by the cement companies. You can explore it with a drill. I have explored two or three of them up there for them. The method of exploring is to take a drill such as you drill wells with, or a diamond drill, and bore a hole down through the rock, and take samples every four or five feet and analyze them.

I prepared this valuation of the rock deposit shown in the defendants' exhibits.

Put in evidence Government's Exhibit No. 387, printed in Exhibit Book, p. —.

I am not prepared to testify as to what is embraced in the term "working capital". Certain data was furnished to me and I accepted it.

In valuing these plants on their productive capacity, I didn't make an inventory of their several plants. I estimated the capacity and multiplied that by \$2.84. I did make an examination to ascertain the condition of the machinery and deducted 25% for [fol. 533] depreciation. I paid no attention to whether they were in fact running to full capacity or not. The number of days that a plant operated would have nothing to do with its value, as I estimated it. I have given no testimony as to the market value of a plant as a going concern. In valuing a plant as a going concern, the amount of money a man can make out of it would be considered.

Q. If you were going to buy that plant, you would not pay the full theoretical value as you have estimated it, would you; wouldn't you consider how much money you would make out of it?

A. Certainly.

Q. And wouldn't that depend on the number of days in a year that it would operate?

A. No, I do not think so.

Q. Isn't that one of the elements that enter into it?

A. I do not think I would take that into consideration at all.

Q. That is, you wouldn't care whether it operated two days or a whole year; you wouldn't consider that at all?

A. As a going concern, yes.

Re-direct Examination by Mr. Porter:

If I were going to estimate the value of a going concern, I would take into account the good-will, brand value, and all those other things, the amount of earnings the plant was making and had made, the number of days it operated. In the estimate of value I have given, I have taken the physical value of the machinery required [fol. 534] to produce a certain amount of cement in a certain time, if operated to capacity. My valuation is a physical valuation and takes into account what it would cost to replace the plant, allowing for depreciation.

[fol. 535] JOSEPH G. BREAZNELL, called as a witness on behalf of the Defendants, being first duly sworn, testified as follows:

Direct examination by Mr. Dorr:

I have been associated with Mr. Fernsler in the preparation of the charts used in this case. I plotted the figures on the charts and

the coloring and so forth has been done under my supervision. This chart is based on computations from Defendants' Exhibits D-271 A to I, inclusive, the financial sheets of the defendants, and correctly charts the figures from them and from the statement of Professor Adams concerning the ratio of the net income of manufacturing corporations to their invested capital after deducting Federal taxes was something over 14 per cent.

Put in evidence Defendants' Exhibit D-456, printed in Exhibit Book, p. —.

[fol. 536] Report of Lehigh salesman, dated August 31, 1918, put in evidence. Defendants' Exhibit D-458, printed in Exhibit Book, p. —.

Report of Lehigh salesman, dated January 4, 1919, put in evidence. Defendants' Exhibit D-459, printed in Exhibit Book, p. —.

Report of Lehigh salesman, dated August 24, 1918, put in evidence. Defendants' Exhibit D-460, printed in Exhibit Book, p. —.

Printed circular of Lehigh Company, October 5, 1918, put in evidence. Defendants' Exhibit D-461, printed in Exhibit Book, p. —.

Inter-departmental letter, October 15, 1918, from John W. Ramsay of Nazareth Company to Mr. J. A. Horner of the Nazareth Company, put in evidence. Defendants' Exhibit D-462, printed in Exhibit Book, p. —.

[fol. 537] Memorandum of Nazareth Company to Mr. Hoover, Sales Manager of Philadelphia office, dated March 27, 1919, put in evidence. Defendants' Exhibit D-463, printed in Exhibit Book, p. —.

Confirmation of telegram, April 10, 1919, from Mr. J. A. Horner to John W. Ramsay, put in evidence. Defendants' Exhibit D-464, printed in Exhibit Book, p. —.

Letter January 8, 1919, from Mr. MacAllister of Pennsylvania Company to Mr. H. A. Moore of Pennsylvania Company, put in evidence. Defendants' Exhibit D-465, printed in Exhibit Book, p. —.

Letter June 7, 1919, from W. G. Grosvenor of Allentown Company to R. L. Cope, Manager of Sales of Allentown Company, put in evidence. Defendants' Exhibit D-466, printed in Exhibit Book, p. —.

Letter August 1, 1919, from F. W. Douglas, Manager of New Jersey District of Lehigh Company, to Lehigh Portland Cement Company at Allentown, put in evidence. Defendants' Exhibit D-467, printed in Exhibit Book, p. —.

[fol. 538] Letter August 7, 1919, from Charles H. Cox to Mr. Preston E. Bradlee, Brookline, Mass., put in evidence. Defendants' Exhibit D-468, printed in Exhibit Book, p. —.

Letter September 16, 1919, from Mr. Floring of the Knickerbocker, put in evidence. Defendants' Exhibit D-469, printed in Exhibit Book, p. —.

Salesman's report of Lehigh Company, dated June 28, 1919, put in evidence. Defendants' Exhibit D-470, printed in Exhibit Book, p. —.

Circular letter of Lehigh Company, dated September 5, 1918, put in evidence. Defendants' Exhibit D-471, printed in Exhibit Book, p. —.

Enclosure dated November 25, 1918, addressed "To Lehigh Customers", put in evidence, Defendants' Exhibit D-472, printed in Exhibit Book, p. —.

[fol. 539] Circular letter of Lehigh Company, dated March 4, 1919, put in evidence. Defendants' Exhibit D-473, printed in Exhibit Book, p. —.

Letter January 12, 1920, from Charles H. Cox of Phoenix Company to Mr. Preston E. Bradlee, Brookline, Mass., put in evidence. Defendants' Exhibit D-474, printed in Exhibit Book, p. —.

Circular letter of Lehigh Company, dated May 31, 1918, put in evidence. Defendants' Exhibit D-475, printed in Exhibit Book, p. —.

Circular letter of Lehigh Company, dated November 16, 1918, put in evidence. Defendants' Exhibit D-476, printed in Exhibit Book, p. —.

Circular letter of Lehigh Company, dated June 27, 1919, put in evidence. Defendants' Exhibit D-477, printed in Exhibit Book, p. —.

[fol. 540] Circular advertising sheet of Lehigh Company, dated August 5, 1919, put in evidence. Defendants' Exhibit D-478, printed in Exhibit Book, p. —.

Circular letter of Lehigh Company, dated July 8, 1919, put in evidence. Defendants' Exhibit D-479, printed in Exhibit Book, p. —.

Letter January 8, 1920, from Local Manager at New York City of Knickerbocker Company to Mr. Naylor, put in evidence. Defendants' Exhibit D-480, printed in Exhibit Book, p. —.

Letter January 10, 1920, from Mr. Naylor of Knickerbocker Company to Mr. Floring and Mr. Stinson of Knickerbocker Company, put in evidence. Defendants' Exhibit D-481, printed in Exhibit Book, p. —.

Letter November 4, 1920, from G. M. Clukas to Mr. Alker of Pennsylvania Company, put in evidence. Defendants' Exhibit D-482, printed in Exhibit Book, p. —.

[fol. 541] Reply letter November 4, 1920, from Mr. Alker to G. M. Clukas, put in evidence. Defendants' Exhibit D-483, printed in Exhibit Book, p. —.

Telegram April 7, 1920, from Nazareth Company of Nazareth to Nazareth Company of Boston, put in evidence. Defendants' Exhibit D-484, printed in Exhibit Book, p. —.

Letter October 24, 1920, from Mr. Abbott to Mr. Naylor, of Knickerbocker Company, put in evidence. Defendants' Exhibit D-485, printed in Exhibit Book, p. —.

Letter October 23, 1920, from Phoenix Company to Mr. Bradlee, at Brookline, Mass., put in evidence. Defendants' Exhibit D-486, printed in Exhibit Book, p. —.

Letter September 20, 1920, from Mr. Cox of Phoenix Company

to Preston E. Bradlee, Brookline, Mass., put in evidence. Defendants' Exhibit D-487, printed in Exhibit Book, p. —.

[fol. 542] Salesman's report of Lehigh Company, dated April 3, 1920, put in evidence. Defendants' Exhibit D-488, printed in Exhibit Book, p. —.

Salesman's report of Lehigh Company, dated March 6, 1920, put in evidence. Defendants' Exhibit D-489, printed in Exhibit Book, p. —.

Report of C. S. Wheat of Richmond office of Lehigh Company, dated July 5, 1919, put in evidence. Defendants' Exhibit D-490, printed in Exhibit Book, p. —.

Letter August 27, 1920, from Mr. Alker of Pennsylvania Company to H. C. Merritt, Tuckahoe, N. Y., put in evidence. Defendants' Exhibit D-491, printed in Exhibit Book, p. —.

Circular of Security Company, dated June 3, 1920, put in evidence. Defendants' Exhibit D-492, printed in Exhibit Book, p. —.

[fol. 543] Letter September 10, 1920, from Carolina Building Supply Company, of Wilson, North Carolina, to Mr. S. N. Peters, General Sales Manager of Giant Company, put in evidence. Defendants' Exhibit D-493, printed in Exhibit Book, p. —.

Letter September 13, 1920, from Giant Company to Carolina Building Supply Company, put in evidence. Defendants' Exhibit D-494, printed in Exhibit Book, p. —.

Letter April 10, 1920, from York Paint and Hardware Company to Dexter Portland Cement Company, put in evidence. Defendants' Exhibit D-495, printed in Exhibit Book, p. —.

Letter December 3, 1920, from Nazareth Portland Cement Company to Mr. Ramsay, Sales Manager of the Boston office, put in evidence. Defendants' Exhibit D-496, printed in Exhibit Book, p. —.

Letter November 18, 1920, from Mr. Floring, in charge of sales of Knickerbocker Company, to Mr. Feeks, put in evidence. Defendants' Exhibit D-497, printed in Exhibit Book, p. —.

[fol. 544] Letter January 14, 1921, from J. B. Vandever of Nazareth Company to Mr. Fehnel of Nazareth Company, put in evidence. Defendants' Exhibit D-498, printed in Exhibit Book, p. —.

Letter June 19, 1920, from George P. Davis of Alpha Company to Mr. Dyer, put in evidence. Defendants' Exhibit D-499, printed in Exhibit Book, p. —.

Letter January 27, 1921, from Mr. Moore of Pennsylvania Company, Philadelphia office, to Mr. Alker of Pennsylvania Company, put in evidence. Defendants' Exhibit D-500, printed in Exhibit Book, p. —.

Letter February 3, 1921, from Mr. H. B. Warner to Mr. H. S. Rayner of Security Company, put in evidence. Defendants' Exhibit D-501, printed in Exhibit Book, p. —.

Letter February 2, 1921, from Mr. Rayner to Mr. Warner, Sales Manager of Security Company, put in evidence. Government's Exhibit D-502, printed in Exhibit Book, p. —.

[fol. 545] Letter February 1, 1921, from Lawrence Portland Cement Company to its salesman, put in evidence. Defendants' Exhibit D-503, printed in Exhibit Book, p. —.

Letter February 16, 1921, from Lawrence Company to its salesmen, put in evidence. Defendants' Exhibit D-504, printed in Exhibit Book, p. —.

Letter March 1, 1921, from Mr. Smith of Lawrence Company to his salesmen, put in evidence. Defendants' Exhibit D-505, printed in Exhibit Book, p. —.

Letter February 15, 1921, from Mr. Meech of Pennsylvania Company to the company, put in evidence. Defendants' Exhibit D-506, printed in Exhibit Book, p. —.

Reply letter February 16, 1921, from A. J. Stanford of Pennsylvania Company to Mr. Meech, put in evidence. Defendants' Exhibit D-507, printed in Exhibit Book, p. —.

[fol. 546] Letter February 10, 1921, from Mr. Floring of Knickerbocker Company to Mr. Feeks, put in evidence. Defendants' Exhibit D-508, printed in Exhibit Book, p. —.

Letter March 8, 1921, from Nazareth Company to Mr. John W. Ramsay, Sales Manager at Boston, put in evidence. Defendants' Exhibit D-509, printed in Exhibit Book, p. —.

Letter March 28, 1921, of Pennsylvania Company, put in evidence. Defendants' Exhibit D-510, printed in Exhibit Book, p. —.

Letter March 26, 1921, from Charles H. Cox of the Phoenix Company to Mr. Bradlee of Boston, put in evidence. Defendants' Exhibit D-511, printed in Exhibit Book, p. —.

Letter May 2, 1921, from Mr. Floring of Knickerbocker Company to Mr. Naylor of Knickerbocker Company, put in evidence. Defendants' Exhibit D-512, printed in Exhibit Book, p. —.

[fol. 547] Letter May 2, 1921, from Mr. Smith of the Lawrence to their salesmen, put in evidence. Defendants' Exhibit D-513, printed in Exhibit Book, p. —.

Letter April 28, 1921, from Mr. Tileston of Glens Falls Company to Mr. George F. Bayle, President of Glens Falls Company, put in evidence. Defendants' Exhibit D-514, printed in Exhibit Book, p. —.

Letter April 29, 1921, from Mr. Bayle of Glens Falls Company to Mr. Tileston, put in evidence. Defendants' Exhibit D-515, printed in Exhibit Book, p. —.

Letter June 9, 1921, from Mr. Naylor, President of the Knickerbocker, to Mr. Stinson, Manager, put in evidence. Defendants' Exhibit D-516, printed in Exhibit Book, p. —.

[fol. 548] ALBERT R. JUBE, called as a witness on behalf of the Defendants, being first duly sworn, testified as follows:

Direct examination by Mr. Porter:

I am a member of the Bar of the State of New York, employed in the office of Porter & Taylor and have been in general charge of preparing an exhibit showing the trade practices of the defendant companies. In preparing the exhibit the trade practice reports of the committee on trade practices were examined and analyzed and

each of the trade practices treated in the reports was given a number and put under a separate heading. Each of the companies designated a man in their employ who collected the documents, records, correspondence, files and so forth, of his company, showing whether it had complied with the recommendations of the committee and at what time his company adopted the practice recommended if it had adopted it. Each of these men, together with his records and documents, came to me and I went over these documents and formulated the answer under each one of the trade practices. The exhibits, thus, are a summary of the various documents these men brought over. The documents were given to the Government some time ago under the stipulation and the exhibits are a summary statement of the contents of the documents.

19 exhibits put in evidence Defendants' Exhibits D-517 A to S, [fol. 549] In that exhibit I divided the recommendations of the trade practice report into 37 different heads; then stated the practice of each company as far back as its documentary records could be traced as to each of those 37 heads. Then I prepared a chart showing in more graphic form and for more convenient reference whether or not each of the companies had changed its practice to conform to the recommendation of the committee in each and all those 37 particulars. This chart, consisting of four sheets, correctly summarizes the statements of the trade practice exhibits in evidence.

The charts put in evidence, Defendants' Exhibits D-518 A to D.

In these charts the black in each square indicates that the company under which it appears conformed its practice to that recommended in the committee report. That is, if there was a change in that company's practice after the report was issued, so that the new practice was the same as the report recommended, it was put in black. The red indicates that the company did not follow the practice recommended in the report or that it did not change to conform to the practice recommended. If a company had been for some years before following a certain practice and the report recommended that practice but the practice was not changed, then it would be in red. The first row of figures at the side of the chart represents the number which I have given the particular trade practice in the trade practice [fol. 550] exhibit in evidence. The second column headed 1915 shows the section of the report of 1915 in which that practice was considered. The columns headed 1916, 1918 and 1919, show the sections in the reports of those years in which the practice was treated. The next column, headed practice, is really a brief reference to the particular trade practice without stating the full substance of it.

Taking the 37 practices mentioned in the committee's reports:

1. As to mentioning a time limit for acceptance in trade quotations, 13 of the companies changed their practice so as to make their quotations for immediate acceptance; 2 of the companies followed the recommendation in their form quotations but not in their letter quotations; 2 of them followed the practice when they began selling in 1917; and 2 of the companies have never followed the practice recommended.

2. As to limiting trade quotations to shipment within 15 days from the date of the order, 14 of the companies changed their practice to follow that recommendation; 1 of them followed it in its form quotation, but not in its letter quotations; 2 of them adopted the practice when they began selling in 1917; and 2 have never followed the recommendation.

For instance, the Alpha Company in 1916 changed its practice so that its trade quotations were limited for immediate acceptance and for shipment within 15 days from the date of order. The Alpha Company's quotations in 1915 before the committee's report were limited to shipment within 10 days, without any definite time limit [fol. 551] as to how long the quotation remained in effect, so that if the company had sent out a quotation its obligation was only for 10 days and it could stop the running of that within 10 days. After 1915 its obligation was extended because its quotations then read for shipment within 15 days, but since the extension was in line with the practice recommended in the committee report I have marked their answer on the chart, Yes.

3. As to specifying a quantity limit in trade quotations, 11 of the companies adopted the practice recommended; 2 adopted the practice when they commenced selling in 1917; 1 had always followed the practice; 3 companies have not followed the practice.

4. As to cash discount within 10 days, the words "time no" in the chart mean that the 10 day period was not adopted after the trade practice report came out. The words "rate yes" mean that there was a change in the rate of discount after the report came out. The red stars mean that the companies so marked in practice do not enforce the 10 day limitation, but allow a discount on payments in more than 10 days. There was no recommendation in the trade practice report of a cash discount of 10 cents a barrel. In the latter part of 1915, most of the companies allowed 5 cents a barrel, and during 1920 most of them began to allow 10 cents a barrel. The 10 cent rate was adopted by the Pennsylvania Company on June 10, 1920, and by the Knickerbocker Company in September, 1920. [fol. 552] 15 companies have not strictly enforced the 10 day period, 4 of the companies have.

5. As to the practice of not quoting or selling cement except including packages, one company adopted the practice when it commenced selling in 1916 after a shutdown. That was the Edison Company. The Hercules Company adopted it when he began business. All the other companies had been following that practice prior to the time of the trade practice report since the various dates indicated, running back to 1901.

6. As to the recommendation that invoices should be dated on the day shipments are made, none of the companies changed their practice after the report came out. They had all followed that practice before the report came out.

7. As to the recommendation that a clause should be inserted in all contracts exempting the company from liability for loss or damage

in transit, 10 of the companies changed to follow the practice recommended; 4 had always followed that practice; one adopted the practice when it commenced selling in 1917; 4 of the companies Glens Falls, Hercules, Dexter and Pennsylvania never followed the practice.

8. As to the recommendation in the report that quotations should contain a provision that orders entered for shipment on a certain date should be shipped on that date unless sooner ordered out by the customer, 4 of the companies adopted the practice recommended; 5 of them put it in the quotation but did not enforce it; 2 adopted the practice when they commenced selling in 1917 and one of them dropped it almost immediately after adopting it; 1 has always followed the practice; and 7 have never followed the practice.

[fol. 553] 9. As to the recommendation that quotations for specific work should not be made an unreasonably long time before bids were submitted, none of the 19 companies has conformed to this recommendation. All of them since the report came out have continued a practice directly opposed to that recommended in the report.

10. As to inserting a time limit for acceptance of specific job quotations, the 1915 report recommended a 30-day limit for acceptance, the later reports recommended 15 days. 13 of the companies adopted the practice of specifying 15 days for acceptance; 2 adopted the practice when they commenced selling in 1917; one has followed the practice since 1913; 3 have never followed the practice.

11. As to the recommendation that after a specific job quotation had been accepted the company should require the execution of a formal contract, 8 companies adopted the practice recommended, 1 adopted it when it commenced selling in 1917, 3 companies had always followed the practice, and 7 companies never followed the practice and do not now follow it. The Allentown Company used the contract until 1916 and then dropped its use.

12. As to the recommendation that when a specific job contract was entered into with the dealer, the company should require a written contract between the dealer and the consumer, 4 of the companies adopted the practice recommended, but one of these dropped it in 1916 and another in 1918; 15 of the companies never adopted the practice and do not follow it now.

13. As to the recommendation that the companies should not enter into specific job contract with the dealers before they arrange [fol. 554] for the sale of cement to the consumer, 2 of the companies adopted the recommendation when they commenced selling in 1917; 1 company had followed the practice in 1915 before the report came out and abandoned it in 1916 and then resumed it again in 1920; 13 of the companies had always followed the practice; 3 of the companies have never followed it.

14. As to not entering into specific job contracts until the work was ready to proceed, 1 company adopted the practice when it com-

menced selling in 1915; 1 company had always followed the practice; and 17 companies never followed it and do not now follow it.

15. As to the recommendation that the minimum quantity sold under a specific job contract should be one carload, none of the companies changed their practice in that particular. Most of the companies have always limited their specific job contracts to a carload or more. The Vulcanite Company has sold the specific job contracts less than one carload.

16. As to the recommendation that specific job contracts should be for a specific amount of cement with a permissible variation of 10 per cent, 3 companies adopted the practice and one of them dropped it in 1919; 14 companies had followed the practice before the report recommended it and 2 of these dropped it in 1916 right after the report recommended it; 2 have never followed the practice.

17. As to the recommendation that in specific job contracts there should be a limitation on the maximum amount of shipments that [fol. 555] can be called for in any one month, 5 of the companies adopted that practice; 2 adopted the practice when they commenced selling in 1917; 7 companies had always followed the practice. The Lehigh Company dropped the practice in 1916, after having used it since 1912.

18. As to the recommendation that the company should require a signed monthly report from the dealer holding a specific job contract, showing his deliveries on the job, 5 companies adopted the practice; 1 had always followed the practice; 13 companies never followed the practice.

19. As to the recommendation that the practice of making blanket contracts is a pernicious one and should be abandoned, 2 of the companies gave up making blanket contracts after the report came out; 3 of the companies had always refused to make blanket contract; 14 of the companies have never followed the recommendation and still continue to make blanket contracts.

20. As to the recommendation that railroads should be sold only on specific job contracts or for 15 day delivery, 6 of the companies adopted the practice after the report came out; 13 of the companies did not adopt it and have never followed it.

21. As to the similar recommendation concerning sales to industries, 7 of the companies followed the practice after the report came out; 2 had always followed it; 1 has made no sales of this kind; and 9 have never followed the practice.

[fol. 556] 22. As to the similar recommendation concerning sales to manufacturers of concrete products, 7 of the companies adopted the practice after the report came out; 1 adopted it when it commenced selling in 1917; 5 had always followed the practice; and 6 have never followed the practice.

23. As to the recommendation that an order blank be signed by the customer, 1 company adopted the practice after the report; 3 had always followed it; 15 have never followed it.

24. As to the recommendation of the report concerning a charge for bin tests, which was that a charge should be made commensurate with the actual additional cost, prior to the report in the Fall of 1915 most of the companies had been charging 5 or 6 cents per barrel. A few months before the report came out the Alpha and one or two of the others had reduced their charge to 3 cents. The report recommended from 3 to 10 cents, according to the actual cost. After that practically all of the companies reduced their charge to 3 cents. Later on, early in 1921, practically all of the companies had abandoned the charge entirely and none of the companies has made any charge since. The Dexter Company abandoned the charge in 1920, the Vulcanite Company also abandoned it in 1920.

25. As to the recommendation against assuming the expense of commercial laboratory tests, none of the companies changed their practice to conform to that recommendation. Most of them have never borne the expense of such tests. 4 companies have borne such expenses since the report came out.

[fol. 557] 26. As to the recommendation that cloth sacks should not be repurchased unless in serviceable condition, 1 company adopted the practice when it commenced selling in 1917; 5 had always followed the practice; 13 have never followed the practice.

27. As to the recommendation that a company should not sell at the dealer's price to dealers for shipments to towns other than the dealer's home town, none of the companies has changed its practice to comply with the recommendation. 2 had always followed the practice, 17 have never followed the practice.

28. As to the definition of a dealer in the report, none of the companies has conformed to that definition in its sales to dealers at its dealer's price, except Pennsylvania.

29. As to the dealer's differential, before 1916 most of the companies had been allowing 5 cents a barrel, the report recommended 10 cents and with few exceptions all the companies thereafter allowed 10 cents. The Edison Company from the Spring of 1916 until June 1, 1920, had no established differential, allowing from between 2 and 3 cents a barrel to as high as 25 cents a barrel, depending on the dealer and his location. On June 1, 1920, the Edison Company adopted a dealer's differential of 10 per cent, which remained in effect until June 26, 1921, when it went back to its old practice of having no regular differential. The Pennsylvania Company has never had a uniform practice as to dealers's differential, varying from 5 to 25 cents, according to the locality in which the dealer was situated.

[fol. 558] 30. As to the recommendation against allowing commissions to dealers on cement sold directly to consumers, 1 company

conformed to that recommendation; 3 companies had not paid commissions to dealers; 15 companies have continued to pay commissions to dealers in such cases since the report came out.

31. As to the recommendation against paying special concessions to buyers to induce sales, 8 of the companies had made it a practice not to pay such concessions before the report; 11 of the companies since the report have continued to pay such special concessions.

32. As to the recommendation against mixing waterproof compounds with cement at the mills, 5 of the companies followed the recommendation and the others did not.

33. As to the recommendation against giving advance notice of change in price, none of the companies have ever done that except the Edison Company, which frequently does so.

34. As to the recommendation against inserting in specific job contracts a clause guaranteeing against a decline in price, the Glens Falls Company has always had in its contracts a written guarantee against decline in price; none of the other companies ever had a form of clause of that kind in their contracts before 1919. Since 1919, or in the case of Pennsylvania, 1918, all of the companies have had such a clause guaranteeing against decline in their contracts, except that during 1920 some of the companies did not use such a guarantee.

[fol. 559] 35. As to dealers selling below the consumers' price, practically none of the companies have made any effort to prevent that.

36. As to the recommendation that dealers be required to state in their bids the brand on which they are bidding, none of the companies ever followed that recommendation.

37. As to the recommendation that manufacturers should not be members of dealers' organizations, 11 of the companies gave up membership in dealers' organizations, following the report.

[fol. 560] Government Exhibits No. 571 to 589 are the specific job contract forms of the 19 defendant companies. Government Exhibit 590 purports to show the points of similarity between those contract forms. I have made up a statement of the points of difference between those contract forms.

The report of the Trade Practice Committee recommended that specific job contracts should be for an estimated quantity with a permissible variation of 10 per cent. Of the 19 specific job contracts in evidence, 3, Giant, Knickerbocker and Nazareth, contain this clause, and the others do not.

The Committee's report also recommended that the contract should contain a clause limiting the quantity that could be called for shipment in any one month. Of the contracts in evidence, 7, Alpha, Bath, Coplay, Edison, Lawrence, Lehigh and Penn-Allen, do not contain such a clause.

The Committee's report recommended that contracts should contain a clause exempting the company from liability for damage in transit. 5 of the contracts in evidence, Dexter, Pennsylvania, Glens Falls, Hercules and Lehigh, do not contain this clause. 3, Glens Falls, Hercules and Lehigh, contain a clause recognizing the company's liability upon the presentation of certain documents.

[fol. 561] The Committee recommended that contracts should require a dealer to notify the company each month of the amount of cement used on the job in the preceding month. 5 of the contracts in evidence, Atlas, Dexter, Giant, Glens Falls and Pennsylvania, contain such a clause. The other 14 do not contain such a clause.

The Committee's report recommended that an additional charge should be made for bin tests. 7 of the contracts, Allentown, Coplay, Giant, Glens Falls, Pennsylvania, Penn-Allen and Vulcanite, contain such a clause. The other 12 do not contain such a clause.

10 of the contracts contain a clause that if the cost of new sacks increases or decreases, the cement company may increase or decrease the contract price. 9 of the contracts, Bath, Knickerbocker, Lehigh, Nazareth, Phoenix, Security, Glens Falls, Hercules and Vulcanite, do not contain such a clause.

3 of the contracts, Atlas, Allentown and Giant, provide that if the company cannot get cloth sacks, shipments may be made in paper sacks. The other 16 contracts do not contain such a clause.

9 of the contracts contain a clause guaranteeing the price against decline, Alpha, Coplay, Knickerbocker, Lawrence, Lehigh, Nazareth, Glens Falls, Giant and Vulcanite. The other 10 contracts do not contain such a clause.

[fol. 562] I have examined the trade quotations, Government's Exhibits 611 to 627, and compared them with the chart Government's Exhibit 628, purporting to show whether those trade quotations agreed with the recommendations of the report of the Trade Practice Committee. I found 16 errors in Exhibit 628. In the first column, which refers to limiting quotations to one carload, the Alpha Company and the Knickerbocker Company have no such provision. The Alpha was explained by a special form of trade quotation put in afterwards as Government's Exhibit 629, but I included that as one of the 16 errors because it did not appear in the trade quotations from which the chart was made. The Knickerbocker Company has no such provision, although it is stated in the chart that it has. Column 2 deals with trade quotations being made for immediate acceptance. The trade quotations of the Giant and Knickerbocker Companies are not made for immediate acceptance, although the chart Government's Exhibit 628 states that they are. Column 3 deals with 15 days' shipments. The Knickerbocker trade quotation is not for 15 days' shipments, although the chart states that it is. Column 5 relates to the route being prescribed by the seller. The Coplay, Giant and Hercules trade quotations have such a clause, although the chart Government's Exhibit 628, by a cross, indicates that they have not. The chart shows that the [fol. 563] other companies have the clause, but the Dexter, Edison, Lawrence and Security do not have it. In the next column, to the

effect that bill of lading is conclusive as to quantity and good condition on loading, I found the quotations of the Atlas and Lawrence Companies do not have the clause, although the chart Exhibit 628 says they do. In the column concerning the clause to the effect that the buyer is responsible for damage in transit, I found that the Dexter and Lawrence quotations do not contain such a clause, although Government's Exhibit 628 shows them as containing it. And I found that Glens Falls and Hercules quotations affirmatively admit their liability for damage in transit, although they are merely starred in Government's Exhibit 628 as not containing any provision. As to the final clause, to the effect that shipments in bags at buyer's risk, I found that the Committee's report recommended that shipment in paper bags should be at the buyer's risk and did not refer to shipment in the ordinary bags that the companies use. None of the companies have a limitation in their trade quotations, or otherwise, providing that shipment in bags generally is at buyer's risk. Apparently the chart Government's Exhibit 628, in this particular, refers to the clause limiting liability for loss in shipment in paper bags. So amending the heading, I found that the Lawrence Company does not have the clause in its quotation, although this chart states that it does.

[fol. 564] Cross examination by Mr. Fowler:

In the trade practice chart, Defendants' Exhibit D-518, No. 14, which reads "declining to enter into specific job contracts before construction work was ready to proceed," I have "No" under 17 of the companies. That means that they never did comply with the recommendation of the Committee's report. Under Lehigh I have "Always No." That means that their practice was always that which the Committee's report subsequently recommended. When I say "Always No," in the chart, I mean that the company never changed its practice. "Always No" simply means it has never changed and that the practice recommended was followed by the company prior to the recommendation. If the company's practice has not been the practice recommended, then I have plain "No". "Always No" means that after the report was made the Lehigh continued the same practice and did not change—that it had always followed the practice recommended and did not change to that practice after the Committee's report. Where I have "1915, No," I mean that in 1915 that company adopted that practice, before the Committee's report came out, and that there was no change after that. Under No. 16, Allentown always did pursue that practice; Alpha and Atlas under whose names is the word "No," never did follow that practice. Bath, marked "1916, Yes," in black, changed their practice in 1916, in line with the recommendation in the report, and dropped the practice in 1919.

[fol. 565] As to the first practice, limiting trade quotations to immediate acceptance, 17 of the companies have stated in their trade quotations that they were for immediate acceptance. Knickerbocker and Pennsylvania have never done it.

As to practice No. 4, which relates to cash discounts, since the

dates mentioned in the chart, 14 of the companies have had a rate of discount which was the same, but they have not observed the 10 day period. They all charged a 5 cent discount on the dates mentioned in the chart. This chart refers simply to the change in 1915, and does not attempt to set forth the change in 1920, which was to 10 cents. The chart refers simply to the change in 1915, or thereabouts, to 5 cents. In 1917, 1918, 1919 and 1920, all the defendants charged the same rate of discount, except for some deviation in 1920.

With reference to the 10 day period for cash discount, all the companies used that period, both before and after the Committee's report. The actual practice was a variation in most cases. They would permit the taking of the discount long after the 10 day period had expired. There was no special limit. In some cases, it went over 30 days. I have every one of those marked as being uniform so far as the 10 days is concerned, because their trade quotations [fol. 566] stated that the period during which the cash discount could be taken was 10 days. The quotations were the same in that respect, but the practice varied.

As to the fifth practice, selling cement at a price including packages, they all pursued that policy during the entire time, both before and after 1916.

As to practice No. 6, the dating of invoices, they have all always been doing the same thing with reference to that practice.

As to the seventh practice, with reference to assuming responsibility for loss in transit, 12 companies have been pursuing that practice since 1916; another, Edison, has pursued it in form since 1917; Dexter has not pursued it except in a few instances in 1916; another, Lehigh, has pursued it from 1915; another, Lawrence, adopted it in 1921; and 3 have not adopted it.

As to No. 10, time limit for acceptance of specific job quotations, 10 companies have followed that practice since 1916; 4 since 1917; 1 since 1918; 1 since 1920; and 3 have not followed it.

According to my chart, 8 companies have followed the practice designated No. 11 since 1916, but that does not imply that they had not been following that practice before that. Hercules has followed the practice since 1917; Bath since 1919; Phoenix and Vulcanite adopted it in 1920; Allentown dropped it in 1916; it has not been followed by the other 6 companies.

[fol. 567] No. 13 has been practiced by 13 companies, in the period since 1916. Hercules and Phoenix have practiced it since 1917. Security practiced it in 1915, before the Committee's report came out, dropped it in 1916, and resumed it in 1920. Glens Falls, Lawrence and Pennsylvania have not pursued the practice. Glens Falls and Lawrence did follow practice No. 11.

As to practice No. 24, making a separate charge for bin tests, Dexter dropped the charge in 1920. Hercules, Penn-Allen and Phoenix adopted it in 1917, the first two dropping it in 1921. Coplay adopted it in 1919 and dropped it in 1921. Vulcanite dropped it in 1920. The other 13 companies followed the practice in the period from 1916 to 1921.

As to practice No. 29, dealer's differential in price, 13 companies have followed that practice since 1916; 4 have pursued it since 1917; 2 have not adopted it at all.

As to practice No. 34, guaranteeing against decline in price, there was no such provision written in the contracts of the companies, until or except as follows: Glens Falls always had such a provision written in its contracts. In 1918, Pennsylvania began to write such a provision in its contracts. In 1919, 14 other companies began to write that provision in their contract. In 1920, another company did so. In 1921, 2 other companies did so.

Two letters dated April 1, 1919, from Knickerbocker Cement Company, put in evidence. Government's Exhibits Nos. 802 and 803, [fol. 568] One of them is printed in Exhibit Book, p. —. The other is exactly the same.

Letter November 5, 1920, from Mr. Cox of Phoenix Company to Mr. M. J. Frostholt, Syracuse, New York, a salesman, put in evidence. Defendants' Exhibit D-540, printed in Exhibit Book, p. —.

Letter December 8, 1920, from Mr. Alker, Sales Manager of Pennsylvania Company, to Mr. H. A. Moore, put in evidence. Defendants' Exhibit D-541, printed in Exhibit Book, p. —.

Letter November 11, 1920, from Phoenix Company to Mr. Frostholt, put in evidence. Defendants' Exhibit D-542, printed in Exhibit Book, p. —.

Letter November 6, 1920, from Mr. Alker of the Pennsylvania to Mr. G. M. Clukas, put in evidence. Defendants' Exhibit D-543, printed in Exhibit Book, p. —.

[fol. 569] Letter December 13, 1920, from The H. Wales Lines Company to Dexter Company, put in evidence. Defendants' Exhibit D-544, printed in Exhibit Book, p. —.

Reply letter December 18, 1920, from Dexter Company to The H. Wales Lines Company, put in evidence. Defendants' Exhibit D-545, printed in Exhibit Book, p. —.

Report of Lehigh salesman, dated December 18, 1920, to the Lehigh Company, put in evidence. Defendants' Exhibit D-546, printed in Exhibit Book, p. —.

Telegram February 3, 1921, from Mr. Speights, salesman of the Pennsylvania Company, to Pennsylvania Company, put in evidence. Defendants' Exhibit D-547, printed in Exhibit Book, p. —.

Reply letter February 3, 1921, from Pennsylvania Company to Mr. Speights, to the Philadelphia office, put in evidence. Defendants' Exhibit D-548, printed in Exhibit Book, p. —.

Letter February 4, 1921, from Pennsylvania Company to Mr. Speights, put in evidence. Defendants' Exhibit D-549, printed in Exhibit Book, p. —.

[fol. 570] Letter January 28, 1921, from Mr. W. L. Sperry, president of The Cumberland Hydraulic Cement and Manufacturing Company, to the Lawrence Company, put in evidence. Defendants' Exhibit D-550, printed in Exhibit Book, p. —.

Letter February 8, 1921, from the Edison Company to salesmen Mathesius, Wight, Furbush, Bigbie, Kahn, Thon and Swett, put in

evidence. Defendants' Exhibit D-551, printed in Exhibit Book, p. —.

Letter February 2, 1921, from H. B. Warner, of Security Company, to Mr. Rayner, put in evidence. Defendants' Exhibit D-552, printed in Exhibit Book, p. —.

Letter January 28, 1921, from Mr. H. A. Moore, District Sales Manager of the Pennsylvania Company, at Philadelphia, to Mr. E. P. Alker, put in evidence. Defendants' Exhibit D-553, printed in Exhibit Book, p. —.

Report of salesman of Lehigh Company, dated February 5, 1921, put in evidence. Defendants' Exhibit D-554, printed in Exhibit Book, p. —.

[fol. 571] Memorandum from the Nazareth Sales Office, at Nazareth, to John W. Ramsay, Sales Manager, at Boston, put in evidence. Defendants' Exhibit D-555, printed in Exhibit Book, p. —.

Memorandum of Nazareth Company, dated March 7, 1921, from Mr. Ramsay to Mr. Fehnel, at Nazareth, put in evidence. Defendants' Exhibit D-556, printed in Exhibit Book, p. —.

Letter March 8, 1921, from Edison Company to its salesmen, put in evidence. Defendants' Exhibit D-557, printed in Exhibit Book, p. —.

Letter March 9, 1921, from Erie Contractors' Supply Company, to Dexter Company, put in evidence. Defendants' Exhibit D-558, printed in Exhibit Book, p. —.

Reply letter March 16, 1921, from Dexter Company to Erie Contractors' Supply Company put in evidence. Defendants' Exhibit D-559, printed in Exhibit Book, p. —.

Letter March 28, 1921, from Edison Company to its salesmen, put in evidence. Defendants' Exhibit D-560, printed in Exhibit Book, p. —.

[fol. 572] Circular of Edison Company, dated March 29, 1921, put in evidence. Defendants' Exhibit D-561, printed in Exhibit Book, p. —.

Memorandum of Edison salesman to Edison Company and the Edison's Company's letter concerning the Alabama Produce Company, put in evidence. Defendants' Exhibit D-562, printed in Exhibit Book, p. —.

Letter April 8, 1921, from H. Wales Lines Company to Dexter Company, put in evidence. Defendants' Exhibit D-563, printed in Exhibit Book, p. —.

Reply letter April 12, 1921, from Dexter Company to H. Wales Lines Company, put in evidence. Defendants' Exhibit D-564, printed in Exhibit Book, p. —.

Letter April 9, 1921, from Mr. Naylor of Knickerbocker Company to Mr. White, a salesman, put in evidence. Defendants' Exhibit D-565, printed in Exhibit Book, p. —.

Letter May 5, 1921, from Mr. Naylor, president of Knickerbocker Company, to Mr. Floring, assistant to president of Knickerbocker Company, put in evidence. Defendants' Exhibit D-566, printed in Exhibit Book, p. —.

[fol. 573] Letter May 5, 1921, from Mr. Naylor to Mr. Stinson,

manager of Knickerbocker Company, Boston, put in evidence. Defendants' Exhibit D-567, printed in Exhibit Book, p. —.

Letters bearing on freight rates put in evidence. Defendants' Exhibits D-568 to D-582, inclusive, printed in Exhibit Book, p. —.

[fol. 574] JOHN R. MORRISON, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

Direct examination by Mr. Stimson:

I am one of the defendants. I am president of the Atlas Portland Cement Company. I have been president of that company since November, 1910. There has not been any understanding or agreement between me and any of the other defendants as to any of the matters you mention, namely, lack of competition as to prices, as to discounts, as to charges for bags, as to credit allowances for bags returned, as to charges for bin tests, or as to customer dealers. There has been no understanding or agreement between me and any of the other defendants as to any of these matters at any time. There has not been any understanding or agreement between the Atlas Company and any of the others, or, so far as I know, between any of the different corporations as to those subjects. As a matter of fact, the Atlas Company has carried on its business with great competition as to prices and as to all the other matters you have mentioned. We have not sold our cement at non-competitive prices. We have sold it at competitive prices. There has not been any agreement whatever among the defendants as to the quantities at which we would sell. We have had no agreement whatsoever as to prices.

Before I became president of the Atlas Company I had been a manufacturer of glue for 17 years. In November, 1910, when I became its president, the Atlas Company was in rather bad condition [fol. 575] financially and I thought without much of an organization. I found that the yard-stick that the Atlas Company had to measure their happiness with was the amount of cement they had manufactured per day, to a great extent. That is not according to my ideas of good merchandizing. They had a very deficient selling organization. I devoted my efforts to increasing the sales of cement and then producing as much cement as we could possibly sell with a reasonable profit. One of the first things I did was to employ more salesmen. I divided the business into departments so that — could have closer attention that it had had before. We began to look into new ways of advertising. We began to strengthen ourselves with the dealers as much as possible because our business is dependent upon dealers, and we took the usual methods of increasing sales—trying to—and succeeded to some extent. It had not been the policy of the Atlas Company up to that time to have an organization to force the sales as much as I believed in when I came there. What I did all comes in under what I stated enlarging the sales force. I did open an office in Chicago, a very large organization,

and it is there today—there are more men there now than there were last year. It is the policy of the organization. The details comprise employing salesmen, cracking the whip once in a while; commending them when they do well—all that tends to increase the sale of cement.

80 to 90 per cent of our business is done through dealers, and, of course, when I increased the sales force it was for the purpose of strengthening our position with the dealers through whom we do most of our business. As a result of our policy we built up a larger dealer clientele.

[fol. 576] We have a service bureau that promotes the use of cement for the Atlas Company alone, and in addition to that, of course, the main promotional work for the industry comes through the Portland Cement Association, the so-called National Association.

When I came with the Atlas Company it was not a member of the National Association. I thought it good policy to join it and did join it and was very much interested in the development of the cement industry through that association. The thing that I took the most interest in, of course, was the result and effect of the association upon the cement business and the promotional work was the work I was most interested in. It was not only extending the various uses to which cement could be put, but good roads were coming up to some extent then. You know you can furnish good cement on a road to a contractor and yet you can get a very poor road. Now when the road business started it was a very necessary thing that we chaperone the use of the cement; that is, we put engineers out there at great expense to see that a road was put down well—that was more necessary in those days than it is to-day—and we looked after the building of those roads to see that the proper aggregate was put in, and to see that they were built as they should be, and things of that kind. You could carry that through all kinds of promotion work—silos on farms and various other ways that cement is used. I think you can get your result without questioning me very much by just looking at the development of the industry itself—a great percentage of that is due to that kind of work. The work of the National Association led to an enormous development in the use to which cement can be put. It is an aid in that and has been one of the chief instruments.

[fol. 577] As to the letter, Exhibit No. 748, referring to a meeting at luncheon with Mr. Gowan and several other gentlemen back in 1915, I have looked it up to see what the meeting was about. The only reason I remember is because I looked it up. I could not remember that far back without looking it up. There was a meeting held to change the manager or recommend the change of the manager of the National Portland Cement Association. There was a man at the head of it who managed it, by the name of Percy Wilson, a pretty good man, good enough for what we did when we started in that association, but the association grew, it developed, and we had to have a man who was able to handle that sort of thing, a bigger man, and it had been suggested that the Universal Portland Cement Company had in their employ a man by the name of Beck who would

make, it was thought, a particularly good man for that work. Mr. Gowan had seen me in regard to this, spoken to me of Beck, and I had agreed with him that Beck would probably make a good man, but I was insistent that Gowan should not approach Beck until after he had seen the Universal's president to see whether he would release him—he was a little liable to go off half-cock on that sort of thing and I wanted to hold him down on it. So Gowan went over to Chicago—he had seen me here, not this meeting that you speak of, but some other meeting shortly previous to that—and at the time he sent me this telegram, he had evidently seen the president of the Universal Company because, as I found in looking back at this correspondence, he sent me a wire and wanted to know if I would meet [fol. 578] him. The whole purpose of that meeting was to suggest to Mr. Percy Wilson, in a way which would offend his feelings as little as you could when you put a man out of a job, that he resign, and suggest to Mr. Beck that he take his place in the organization. The reason I wanted Beck in there was because I thought he would be more effective in promotion and other work of the association. He was a promotion and advertising man. The purpose was to get him to put a little ginger into the promotion work and to develop more steadily, not just a spurt, keep going. Beck went in and developed that work splendidly. I believe he was an engineer.

The cement industry is an industry in which the demand varies according to the seasons of the year. They build more at certain times of the year on account of the weather, and inasmuch as that is the only way that cement is used, it is obvious. The winter months, November, December, January and February, are the quiet season. The active demand for shipments starts in March usually, in this part of the country. That is not to stock up for the summer. They stock up for as short a time as possible. It is their first car in the Spring. Of course, the business being seasonal, as you put it, means that we have got to go on producing a limited quantity of cement and accumulating it during the months that we are not shipping out as much as we make. We cannot ship out in the Winter; they don't take the stuff and we must accumulate it. But the main thing is that you have got to take into consideration and have foresight on the cost at the beginning of the year so as to cover almost the entire year. You sell stuff even in the four months when [fol. 579] cement is not being shipped, and to a greater extent later on, that is not going to be made and delivered until later in the year. Now you sell that on these specific jobs that have been talked about; you sell that at a given price, and we for instance, and most people, guarantee against decline even; we can't get more than that price. When I say guarantee against decline, I mean the price to the dealer can't go up and he gets the benefit of it going down. You have got to take on those contracts. You have to have foresight on those contracts too, because the cost may be entirely different at the end of the year. It makes it necessary in the first place to estimate during the winter what the demand will be in the coming season, to govern your manufacture. That is one uncertainty. Then it makes it also necessary that you estimate the costs, the prices of cement, during the com-

ing season. That is a very important factor. Both of those uncertainties affect what you have to do in order to run your business successfully.

There is a very good thermometer of prospective conditions in our business, and that is permits and awards. Permits are permits to build that are taken out. Awards are the awards of contracts carrying out the permits. Sometimes they have permits before the awards, but you take them both together. Take it now, you have seen in the paper time and again here lately that there are more awards being let for contracts throughout the country. I saw a record the other day where in 104 cities, I think, there was over a hundred per cent increase in awards. That is being reflected now in the shipments of cement today. But we knew about it, or thought [fol. 580] we knew about it some time ago, as these permits and awards preceded the actual building. When we find there is a large percentage of permits and awards being made, we anticipate a big demand even when the market is slack at the time; and if the permits and awards are small in number, we anticipate a slack demand.

About 60 or 65 per cent of all our business goes to dealers and into their warehouses and they sell it out in wagon load lots, or something of that kind. That is the daily business, the steady outgo of our cement. Then we place 25 to 30 per cent more business through the dealers on these specific jobs. Together that makes close to 90 per cent sold through dealers. The fact that we dispose of so much of our cement through dealers, of course necessitates a uniform price to dealers. We cannot discriminate between the different dealers in our prices. It is impossible to give one dealer a more favorable price than another. If we adopted any other policy there would be a riot. That is obvious. You cannot quote one dealer one price and another dealer another on a commodity like ours. The fellow would hear about it and we would lose him, we would not have him for a customer. It would end up pretty promptly.

When I came into the Atlas, the Atlas had its main mill in the Lehigh Valley. It also had a mill up at Hudson. There were some other mills at Hudson too, either there or across the river, but the main bulk of the mills were in the Lehigh Valley. At that time [fol. 581] there was not any basing point at Hudson. All of the cement was sold at prices based upon the Lehigh Valley, so far as that part of the country was concerned.

The custom of selling cement f. o. b. point of delivery was a custom which was in practice long before I became president of the Atlas Company.

Letter dated June 3, 1901, from Mr. Navarro, vice-president of the Atlas Company, to certain dealers, put in evidence, Defendants' Exhibit D-538, printed in Exhibit Book, p. —.

That letter was some nine years before I went in as president of the Atlas Company. This selling of cement f. o. b. point of delivery is a matter of convenience to the customer. No other system

is possible practically. We sell cement through a great many thousand towns and at a great many different freight rates. You saw how long it took the Government man here to determine rates the other day, and if we sold any other way except f. o. b. point of delivery, the building season would be over, I guess, by the time they figured out their rates, most of them. It would be very inconvenient. The customer could not figure out his own freight in a great many cases.

[fol. 582] The convenience to us, or our men, of basing prices on the Lehigh Valley, when all prices were based on the Lehigh Valley, was that when the base price at Northampton in the Lehigh Valley is known—for instance, a dollar at Northampton—and it is known what the freight is to the place that they are selling cement, they take the base, add the freight and the other things that go with it, the bags, and so forth, and then they know the price. In order to tell any of our salesmen the price at which our cement is to be sold at any town all we have to give him is the base price and a book containing the freight rates. We do not have to tell him the price at each particular place. If we change our price, all we have to do is to tell him to change one price, the base price, and then he knows exactly how much that cement is sold for everywhere in the district. He only has to add the freight and he has the whole thing. That is all there is to it.

As to the effect of introducing another basing point to that situation, at the time I came into the industry there was another basing point at Universal, near Pittsburgh. None of the Lehigh Valley companies has a mill there, but there was a mill there of another company, the Universal. I based on Universal also. That means this: If there was a line drawn here (indicating on map) between Lehigh Valley and Universal, and all places on this side of the line were freightwise nearer the Lehigh Valley (so that the freight to them from the Lehigh Valley was less than the freight to them from Universal), and on the other side of the line the points were all freightwise nearer Universal, then if I went across that line and [fol. 583] sold cement over in the territory which was freightwise nearer Universal, I would have to meet the Universal competition of course—I would have to meet their price. To do it I would take the Universal base, their Universal base, and the freight from their mill, to the place where they were selling the stuff, add them together, and that would be the price we would have to sell for. But that is not the price that we get. We would have to absorb the freight going into the territory, the freight going over that line we are talking about. If I wanted to sell any cement at a place freightwise nearer Universal, I would have to sell it at the price at which Universal could reach it from its mill. To do that I would have to pay the freight all the way from my mill over to that delivery point. That would reduce the amount that I would get for it.

When there was not any base at Hudson we sold all of our cement anywhere around northern New York and New England at

the price which it would bring at our base price in Lehigh Valley, plus freight to the delivery point, and if we delivered any of that from Hudson we made that much more money. In the beginning the Hudson group of mills was a comparatively insignificant group. As the years went on a base was put in at Hudson. It was after I became president of the Atlas Company. I think it was in December, 1914. The effect of putting in the so-called basing point at Hudson was that, generally speaking, of reducing the price of cement sold up in that neighborhood, New England and around Hudson. Thereafter, when we sold cement up in that neighborhood, instead of charging the buyer the price of the cement in the Lehigh Valley, plus the freight rate to the delivery point up around Hudson, we charged him the price at Hudson, plus the freight from [fol. 584] Hudson to the delivery point. The base price at Hudson was not always the same as the base price at Northampton in the Lehigh Valley. The cost of production at Hudson was somewhat higher than it was in the Lehigh Valley. The base price at Hudson was quite a little bit higher than the base price in the Lehigh Valley. But the net result was to reduce the price in the entire territory that Hudson catered to.

The mills down in the Lehigh Valley which did not have any mills up at Hudson are making a row and bringing suits all the time to get a lower rate from the Lehigh Valley up into this New England territory, to go after us. The Hudson mills have the advantage of the short haul and the lower rate to the point of destination in New England. The Lehigh Valley mills which did not have any Hudson mills found themselves at a disadvantage for that reason. That is one reason we went to Hudson, to get that advantage over them. After they found we had that advantage they tried to neutralize it by going to the Interstate Commerce Commission and trying to get the rates from the Lehigh Valley reduced or our rates raised so we would not have such a big advantage. They are doing that all the time. They have such a case on now—very decidedly.

In December, 1914, a trade war began in the cement industry. Before it commenced the Atlas Company had a good dealer clientele. The Government's Exhibit 675 shows that before that trade war started the price was about 90 cents a barrel. During that war prices kept going down. Our company did not lead in putting [fol. 585] them down and we didn't lead in putting them up either. They went down to 60 cents. Atlas did not go below 65, except in rare instances. The occasion of that war was something that concerned our company. This is my opinion, my best judgment of it, and a little embarrassing for me to state it, too. The idea and purposes that I had in mind in taking the action that I took at that time was this: I have always thought that that was an attack principally by the Lehigh Company on the Atlas Company to take away its dealers—I have to apologize to Colonel Young (of Lehigh) for thinking that, but I do—did and do now. A dealer is probably the most valuable asset that we have. I don't believe that they looked upon the Atlas Company as being in particularly strong financial shape, and they commenced to drop this price and they kept going

5 or 10 cents at a time—I think mostly 5, as I recall it. It was a ruinous situation; I mean there was not anybody making money, everybody was losing when they got down and it was even below mill cost—our mill cost; I don't know what their mill cost was. They were selling considerably below the general commercial cost. If you include the selling cost, it was even lower. We met it as quickly as they got down, until we got down to 65 cents, and we could not go any lower. And another thing, I think we beat them out a little at that, when our price got down to 65 cents and they were 60, I notified our salesmen to go to the trade—the trade knew that cement was being sold at less than cost just as well as I did—I told our salesmen to go to the trade and tell them that the Atlas Company was going to be in business right along; that we could not sell cement at 65 cents and we certainly would not sell below; that we would not go [fol. 586] below 65, no matter what the other fellow, did, and we thought it was good business for them to stay with the Atlas Company; that it was only a question of time; nobody could sell a product below what it costs except temporarily—except with one result—and we got a good deal of business at 65 as against those other fellows at 60, and held it. You see a 5 cents difference in price when things are abnormal and below cost is not effective, where it would be at any other time. I think they got tired of staying down at 60 pretty quickly. I think the low price was in February, 1915, and they started to go up in May, 1915. When they began to go up I rejoiced. I followed them up mighty quick. There was no agreement whatever by which that trade war was stopped. They went up and we followed. As to the effects of that trade war, we didn't get the bad effect of that wiped off—the war debt was not paid—for a long time, of course. There were a great many contracts for future delivery taken while the price was low. The effect lasted through the year. The average price realized by the Atlas Company that year was 72. The advance started in June and by July 15 the price had gotten back to 90 again. But the amounts we had shipped and contracted for at the old prices brought the average for the year to only 72, although the price got back to 90 in July.

Our company went in to the Cement Manufacturers Protective Association, when it was organized in January, 1916. There were several benefits that I thought our company could get from that association. One of the main advantages that I thought would accrue to the Atlas Company, and it has accrued, was the exchange of statistics of production, shipments, stock on hand, of our [fol. 587] competitors. I think that is the kind of information that is necessary intelligently to run a business. I always have thought so and I still think so. Then there was the reporting of these specific job contracts. The idea is that two companies ought not to be held liable for the same contract to a dealer or contractor, either one, so that when the price goes up, he can call on both of us for the cement. You have gone through that here. That was decidedly an evil at the time and had been for a great many years. Our obligations were very uncertain. We never knew just what they were. The reporting of specific job contracts was for the purpose of identifying the duplicated contracts.

The third activity was the freight rates, the freight rate books. I think that was a convenience to the Atlas Company, although, of course, it did not affect the Atlas Company as it did the smaller companies, because we have a large and expensive railroad department that we can afford to keep up. The publication of a book of freight rates was mainly for the benefit of the small companies. We already had a freight rate department. But it was a convenience for us, too.

As to the fourth activity regarding credits, I know very little about the credit end of the business. I should say it affected us advantageously. When there was a man who continually did not pay his bills for cement—it doesn't make any difference where he gets it—and that information can be exchanged between competitors—I should say it was a benefit to know that, but I can't go into detail [fol. 588] on that. The principal activities that influenced me in joining the association were decidedly the first two I mentioned. [fol. 589] I used the statistics of production and shipments of the Cement Manufacturers Protective Association to guide me in running the business. The letters addressed by me to my salesmen and sales managers, for instance, Defendants' Exhibit D-32, refer to the facts that I got from those statistics. I was always anxious to get those statistics, especially the shipments—they came to me twice a month—to see just how we were doing as compared to others. If others were getting more business and getting business away from us, if we were going down and they were going up, I would know it by those figures. It gave me a chance to crack the whip a little with our own men in a nice way. These letters were cracks of the whip. We commended them when they did well. But, of course, the figures were for use in just that thing, that's what they were for, they were of benefit to me in that way. I used them to stimulate me into getting more business and then passed it on to the sales managers and salesmen.

In regard to the reports of specific job contracts reporting the prices at which the contracts were taken, the main benefit to me of the prices on those contracts was checking our own men, I mean my own salesmen. It is not an uncommon thing for a salesman, as you know, to go to a purchasing agent and try to get his order and come back and report that he didn't get it because some fellow cut the price; giving that as an excuse for his not getting the order—the [fol. 590] salesman not getting the order. Of course, there was rarely much information in this report in regard to a contract being lost to the Atlas Company; I think those reports came in a week or so after the thing happened, and we were on the job long before that, of course. But when these prices came in that you were asking me about—if a report came in, for instance, that the New York Central had placed an order with a competitor for 10,000 barrels at \$1.25, and \$1.25 was our price, it would naturally make me think that the reason we lost the order was because the other fellow had a better salesman. It was a question of checking up the salesmanship with me more than anything else. The prices would not be of any use in giving me a line on current prices. We got current prices

instantaneously from dealers. We got those over the telephone. These prices through the Protective Association came in about a week afterward. I had all the price information that I needed long before these contract reports ever came in.

In entering this Protective Association, I had no purpose whatsoever in my mind to fix or affect prices in any way.

Prices were just as uniform long before the Association as they were after it was in operation. Look at your trade war—I mean what do you want better than that?

[fol. 591] I have determined the price policy of the Atlas Company under the different conditions of the market. To tell how I do it is a pretty large order. I can answer in a way. It depends altogether upon conditions. There is a factor that might be prevalent any time there that would cause me to consider a price change, and that is the price change of a competitor. We automatically have to take care of that. I mean if a sufficient quantity of cement is offered at a less price than the Atlas price, within a reasonable time we have to meet that of course. If a competitor who has been furnishing a sufficient amount of cement lowers his price, we have to meet it, especially when he is trying to get the dealers. There is a marked difference between the different companies in that respect. Some of the companies have more of a dealer's policy than others. Some of them have a small enough output so that they don't have to have a fixed policy with the dealers such as the Atlas has. Take a fellow who has a million barrels of cement, he can do anything he wants with his million barrels of cement; it might be a special job for a million barrels of cement and he can sell it at cost if he wants to, right on that one job; that is all the cement he has got, a million barrels, and he can place that right out. The Atlas Company manufactures a large quantity of cement and 90 per cent. of its business goes through dealers. We are dependent upon the dealers. We have got to have a fixed policy with those dealers, because they [fol. 592] are dealers. Therefore, if a company like the Alpha, or the Lehigh, or Universal, or any of those companies went down in their price, that would be a thing that would make me consider going down awful quick. But, of course, you can't say that your business is run entirely on what some other fellow makes you do; you have got to take into consideration the laws of supply and demand; you have got to figure over these permits and awards that I was telling you about. I think it is the different digestion of the facts by companies that makes them a comparative success. It is foresight. I can imagine a condition where other people might do things which would not affect me at all; I would let them get through doing what they wanted and I would get the business afterwards. I would let them fill up, try to get them to fill up; that is part of this game. Now that works the other way; that works when a competitor goes up in price. Very often a competitor goes up in price in order to load me up with business, or some other fellow, so that he can't ship when the dealer wants it, and you get back to the same thing again; he is trying to take your dealer away. It is not a question of money; the dealer is the permanent asset.

They might flood you with orders, then if you do not ship the stuff, Mr. Jones over there would go to the dealer and say, "That is all right, you can always get a lower price from the Atlas Com-[fol. 593] pany, but you don't get the cement." It is an obvious thing. I don't see why we talk so much about this thing. You have got to run your business that way.

The first change in price after the Protective Association was formed, an increase from \$1.05 to \$1.15 per barrel, was in October, 1916, according to Government's Exhibit 675. This letter, D-25, I don't remember specifically, but it is the way we learned of price changes all the time. I had no knowledge that anybody was going to raise the price until the information came, as indicated in that. It refreshes my recollection that the costs of manufacturing cement were going up in the Fall of 1916, not in detail, however, but, of course, they did go up. All you have to do is to look at the selling price of cement and you can usually tell when the costs are going up—when the selling price is going up. On that change of price three of the other companies went up before we did. I did not know anything about their going up until we got word from the dealers. It is always so; you do not have to ask me that. I don't mean to say that invariably somebody else puts the price up and we do not, but I mean invariably we get our information in regard to a price going up from the trade.

In 1917, when this country went to war, the War Industries Board was formed. Mr. Baruch was the Chairman of that Board and an old friend of mine. He wrote to me and asked me to give him the [fol. 594] names of important cement men in different locations in the United States, from which he could select a committee to work with his Board and the Government. I did it and he appointed a committee and made me Chairman of it. The Government and this committee fixed the price of cement which the Government purchased during that period of the war. The Government did not have all their own say about it. We gave them costs and discussed what would be a fair price; it changed you know. But at different periods we would go to them and there was a price fixed, which the Government would pay for the cement. Other than the cement which the Government took, the use of cement was restricted to essential uses by the Government. The Government also cut down the supply of coal that we were allowed to have. It discussed with us as to what our price to the public should be. They said they would approve a certain price and would take action in case we sold to the outside fellow for a lot more money. They virtually fixed a maximum, and we did not go beyond that maximum, but I don't believe I could say they fixed it. They controlled it—put it that way. That price was 15 cents over the Government's price. It lasted through the war.

Then in the Spring of 1919, after the war was over, there was a committee known as the Peek Committee, which asked me to call together my old committee which Mr. Baruch had appointed, in order to take up the question of a reduction of prices to help the re-[fol. 595] establishment of industry. As a result of that, the price was reduced from \$1.90 to \$1.75.

I wrote this letter in January, 1920. It fairly shows the situation at that time.

Letter dated January 24, 1920, from Mr. Morron to Mr. Burch, of the Atlas Company, put in evidence. Defendants' Exhibit D-539, printed in Exhibit Book, p. —.

Cross-examination by Mr. Fowler:

I had not been in the cement business before 1910, when I became President of the Atlas Company. At that time the Atlas did not belong to the National Association. I think we joined about a month or a few months after that. That Association sent out statistics of production. I think the Association held meetings twice a year and I attended a number of them. I have been a member of the Executive Committee. You have a record here of what that Association did concerning trade practices. I don't consider that important. At the time I became connected with the cement industry there was no Association here in the East.

When I came here, the Atlas was operating under a license agreement and continued to operate under it a couple of months after I came in. There was no association in this eastern section for a time after that license agreement. There was a dinner that I gave September 26, 1912, to thirty or forty cement manufacturers, at the Knickerbocker Hotel. I wanted to meet—I knew very few cement men, and I wanted to give this dinner to meet them. To be perfectly candid, I think the Atlas Company had had a reputation of being a little bit autocratic. That is not according to my policy. [fol. 596] I wanted that understood. That was the purpose of the dinner. It was not for the cement men to get together. It was for me to meet the cement men. I did not know them. I got acquainted with them there. We did not talk about the prices of cement. I can recall no talk about that.

On November 7, 1912, the Eastern Association was organized. It was after that dinner, because it was not formed before. We did not talk about the organization of an association at the dinner. I have been trying to refresh my mind on that, but I do not think anything was said about an association at that time. I was President of the Eastern Association. It stayed together for two or three months, or three or four months, and then disbanded. Then there was no association in this eastern section until the Protective Association was organized in 1916.

On December 29, 1913, I wrote Mr. George F. Baker, enclosing a copy of a speech that I had delivered at a meeting of the National Association, Government's Exhibit 516. When in the course of that speech I said that should each manufacturer "continue to violate the eleventh commandment, he will force others into the same position, by the eleventh commandment I referred to "Thou shalt not be a hog." I was present at the organization meeting of the Protective Association. I was not one of the promoters of it. I think every-[fol. 597] body promoted it. I do not know who made the first sug-

gestion, but I have a sort of an idea that Mr. Lober did, of the Vulcanite. I know I was in thorough accord with it, and I might just as well have promoted it as not; I had nothing against promoting it, but I do not think I did. The first meeting was held in some hotel, here, I think. I do not remember whether I was on a committee in connection with it or not. My company joined the Association. I have been in thorough accord with the movement. It cost to run it, for all the companies, about \$60,000 a year, I think. As soon as we went into the Protective Association we began reporting specific job contracts and receiving reports of specific job contracts. Every day we have given and received them. I doubt very much whether all the specific job contracts were reported by the companies. I have always thought that some of them may not have reported all their specific job contracts. I doubted them to that extent. The report was delivered every morning, but those specific contracts were taken about eight days before, as I recall it. The question of price in those reports did not mean anything to us at all, so far as as the specific job contracts were concerned, because we got our prices from the dealers, as I told Colonel Stimson. But I was glad to have the prices of specific contracts reported on that sheet for the purpose of checking up our own salesmen, to find out whether we were losing business because they were not good sales-[fol. 598] men or because of the fact that they misrepresented conditions to us and told us somebody was cutting the price.

I would feel very much ashamed to have to sell cement at less than anybody else. I did not want to do it, certainly not. I should hate to think that we were spending hundreds of thousands of dollars in advertising and building up the business of the Atlas Company, and then have to sell, because of lack of ability of the President, for less than the same kind of commodity was being sold for. As to whether my competitors felt the same way, you cannot ask me about my competitors, because I don't know.

We reported our production and our shipments twice a month. The other members sent like reports to the Association, and the Association sent them to me. I could glance at that information and tell exactly the status of production, both of clinker and cement, but don't talk about clinker, there is very little of it produced other than cement. To a great extent clinker is non-perishable, while cement is perishable.

That information was used for our guidance in business, but I don't know as I would call it private. I would have given it to anybody who wanted it. I did not because they did not want it, probably. I never had any occasion to give it to anybody, but if the public wanted to have it, they could have had it, because I think it would have been a good thing to give it to them. As a matter of fact, it was not given to the public.

[fol. 599] Our rate books were in use when I came to our company in 1910.

We would have to absorb some of the freight when we shipped into our competitor's territory. We met him by quoting the same price to the fellow that he sold to, but not realizing the same price

ourselves. We quoted to that fellow at that delivered point exactly the same price that our competitor was quoting. That is so everywhere. There were times when the Atlas went under. I remember one time when we quoted under him. I can't tell you when, but I can explain to you. If we had to absorb the freight, and the other fellow did not have to absorb the freight and he was paying the same cost for production, he could get more money. He could not undersell us and still make as much money as we did. He couldn't undersell us more than 24 hours. You bet we came down to him. That is exactly what we did. He could not come to a point where he would lose money and we would make money. The reason for that is that if we were absorbing freight and he was not, our commodity would not be sold in the district where that absorbing freight made us lose money. You can't do that. We have a high priced business in another territory that will give us a little nutriment while such competition is going on down there. Our business is not made up of isolated transactions. It is made up of a combination of small business. There is nothing to the fact that [fol. 600] every sale is a transaction within itself. Of course, every time we bill a man a carload of cement, it is part of a whole, it is a unit.

I can't give a specific instance where we had to absorb the freight and our competitor did not have to absorb the freight when he sold under us. I don't go around carrying instances in my pocket. I can explain it so that you can understand it, if you want to. If you want me to give you a hypothetical case, I will do it. Take it down around Universal. It makes no difference whether Universal does or does not belong to this Association, it is the same thing. If the Universal, for instance, should have a certain mill base and we would have to absorb freight in shipping to the point that Universal was shipping to, by shipping from our Northampton base, and Universal should reduce their mill base, then everybody would right away come to Universal.

Whether when one of the companies belonging to the Protective Association went down or went up, I would follow, depends upon the company that *when* down or up. I would follow one quicker than I would another. We wouldn't allow a fellow with a million barrels to set a price on our entire output.

I did not designate the cement committee connected with the War Industries Board. I gave a list of names from which Mr. Baruch chose. I don't think the committee was there to look after the industry, commercially speaking. There was just a little sentiment about that all through this whole committee; the cement people did things for the Government that they never would do for the trade. The price was not fixed by the committee, it was fixed by the Government. I don't think you want to be too technical on this thing, I can't tell you whether it was the War Industries Board, but it was what they called the Price Fixing Committee. I think it was a sub-division of the War Industries Board. It was not our committee, but a price-fixing committee of the Government. The object of our committee was to furnish information to that Gov-

ernment committee and to advise with them. They had the Federal Trade Commission on that price-fixing committee; the Federal Trade Commission had a representative and he checked over all of our costs and everything so as to arrive at what they thought was a fair price for the Government to pay for cement. That price was not a maximum price, it was the actual price. The maximum price that I spoke of was the price charged to the public. That was the maximum that we charged the public. They told us that if we abused our privilege they would take it in hand and control it, see that an order was issued.

[fol. 602] J. FRANCIS SMALL, called as a witness on behalf of the Defendants, being first duly sworn, testified as follows:

Direct examination by Mr. Porter:

I am in the appraisal business. Since the early part of February I have been connected with George W. Goethals & Company. Before that I was in the appraisal business with Coates & Burchard, in Chicago, for four years. They have been in business about 25 years, making appraisals of industrial plants all over the country extensively. In the latter part of 1919, I arranged for an appraisal by that firm of the properties of the Lehigh Portland Cement Company. The cost of making that appraisal was \$70,000. We made complete drawings of all the plants and quarries, took the properties as we found them, beginning with the cost of excavation, and replaced the buildings; that is, we figured the cost of replacing the buildings by parts and quantities, replacing the equipment, depreciating it for obsolescence, wear and tear, and also established the net sound value. The volumes on the table there are the volumes for one plant. I think there are nine Lehigh plants here in the east involved in this suit. In that appraisal we also appraised the value of the rock deposit. From these 20 or 25 large volumes of detailed appraisal, I have prepared a summary showing the total of [fol. 603] the reproductive value of the Lehigh Company's mills which are involved in this suit, and also the sound value of the rock deposits, and added to that the amount of working capital as shown on Defendants' Exhibit D-277. This is the summary.

Put in evidence Defendants' Exhibit D-583, printed in Exhibit Book, p. —.

Cross-examination by Mr. Fowler:

In such an appraisal, we first figure what it would cost to reproduce the building new, and then take off the depreciation for the condition in which we find it. After we figure on replacing a property based on new materials, we depreciate them from observation for obsolescence and wear and tear, and determine the sound value. Obsolescence is a condition in which the property is found; it might be used for one purpose and no longer of value for that purpose, or it is rapidly arriving at a condition when it is of no value, so

obsolescence takes place, and more particularly in machinery. For instance, a machine may be going out of date and more effective machinery for doing the same work may be developed. Therefore, the former is more or less obsolete. Wear and tear we figure from the use to which the machine has been put. It is wearing out and [fol. 604] so it has depreciated for the service it has already rendered. The difference between the reproductive value and the sound value is here about \$5,300,000 or a little more. That is the total depreciation of buildings and equipment, for obsolescence and for wear and tear. The rock deposits are a separate item. There are separate appraisals for the rock. The sound value of the plant and the rock deposits would be added together to arrive at the total value. My total sound value is \$21,950,458.26. That is the sum of the sound value of the plant's working capital and rock deposits. The word "sound" could just as well be left out, and say total value.

I cannot tell you why that appraisal was made. We never ask a client why they wish an appraisal made. We make appraisals for various purposes, so as to place insurance risks accurately, and in case of loss by fire to prove a claim; for authoritative statements for banks to use in bond and stock issues; for mergers, and various other reasons when it is desired to have knowledge of the full plant value.

When I make an estimate of the value of a plant I compute labor and material at the prices prevailing at the time. This particular valuation is based on the prices of labor and material during the latter part of 1919 and the early part of 1920.

It took us about a year to make the report, which is dated August 20, 1920. I have never engaged in the cement business, and do not know anything about the manufacture of it, except what I happened to notice there casually.

[fol. 605] OWEN H. HESS, called as a witness on behalf of the Defendants, being first duly sworn, testified as follows:

Direct examination by Mr. Cox:

I reside at Nazareth, Pennsylvania; am Superintendent of Dexter Portland Cement Company, and have been a little over 21 years. As Superintendent, I have charge of the operation of the plant and am in direct charge of the production of cement. I act under instructions of the executive office. Those instructions have been to produce as much cement as I possibly could. I have tried to carry out those instructions. Since the war restrictions of 1918, I have produced as much as I possibly could—every barrel.

A cement kiln cannot operate 24 hours a day for 365 days in the year. Disregarding the shutting down for making repairs, laying those aside, according to my observations and experience, a cement kiln can be run on an average about 22 hours. That, in my judgment, is a perfect, normal operation, without any allowance for repairs. We can't run 24 hours, because you have to shut down sometimes for heating the kiln, and sometimes for flushing

the cement, and other little things that happen that you can't prevent. You have to shut down for patching the lining. The cement [fol. 606] kiln is bricked out with fire-brick, and we give a coat of raw material on the fire-brick, and sometimes where it is not properly packed it drops out and we have to stop that kiln and put in a new pack. That is what is called packing with raw material. It does not refer to relining with fire-brick, but merely to recoating with the raw material. If you don't do that promptly, the fire-brick will burn out. By flushing, I mean that the feed of raw material is interrupted for some reason. Sometimes we get low in the stock boxes of the raw material and the kiln don't hold it and it flushes in. These and similar interruptions, without regard to repairs, according to my experience, take up on an average about 2 hours a day for each kiln. I call 22 hours a perfect run.

Then in addition to that, you have to shut down from time to time for actual repairs. Those repairs result from something breaking or having to reline the kiln, or something of that kind. The time it takes to reline a kiln depends on how far we have to line. Sometimes we have to line for 8, 10, 15 or 20 feet of the fire-brick. The further you have to line the longer it will take. These shut-downs for repairs are just as they happen. There is no general rule.

The raw material which we have at our quarry in the Dexter plant is cement rock. We get the proper mix by taking it from two places in the quarry. We don't have to bring anything in. When it is hard we add clay, which we get right on the plant. Ord- [fol. 607] narily the rock itself is in the right proportions to make Portland cement.

According to my experience, machinery at our plant wears out and in order to keep up we have to add more machinery. We have been doing that right along. For instance, when we started at the quarry we used trucks that took about 2,400 or 2,800 pounds, then we got 2½ tons, then 4 tons, and now we have 6 ton cars. The old trucks wear worn out and scrapped. We keep things repaired as long as we can, and then there comes a time when we have to get new ones. That happens right along with all the machinery in the plant.

Cross-examination by Mr. Fowler:

A cement mill runs night and day as long as you can, if nothing happens to a machine. The kiln is down sometimes for repairs. It does not crack your kiln when it cools. We could let it cool off over Sunday and start up again. It could be done. We don't though. We run it night and day, Sundays and every day in the week.

In estimating the capacity of the mill in the year, 365 days would be the basis, if they run continuously 365 days. It would be the basis theoretically, but it would not practically. We could not run everything continually and make 500 barrels a day every day in the year; we could not do that.

[fol. 608] Our kilns are six by seven feet in diameter and a hundred feet long, and they are a little different from other kilns.

Some mills have the same kilns. We figure on about 400 barrels in a kiln a day. That is about my experience. We have six kilns. 2,400 a day would be our capacity if we run it continually. I should judge we would produce 2,400 barrels a day for 360 days. Some days, of course, we shut down. We have been running our mill for the past three years all we possibly could. I should judge that it would hold out pretty near to making 2,400 barrels every day for 360 days for the last three years, with the exception of the repairs of the kilns, which will happen right along. We actually run about 360 days in the year, but we cannot run all the kilns. We have to line the kilns. I don't know how many days we would knock off during the year for repairs. I have never thought about that.

I mean to say positively that the last three years I have got out of that mill every barrel of cement that I could under what I consider proper operation.

I did not help make any of those figures that have been turned over to you, or know anything about them.

We have almost perfect cement rock right in the quarry, and if it is too high in lime we add clay, which is right there on the property. Our mill is in Nazareth, in the Lehigh Valley. I would not say that our mill is about the cheapest operated mill among them all. I don't know.

[fol. 609] LESTER C. HAWK, called as a witness on behalf of the Defendants, being first duly sworn, testified as follows:—

Direct examination by Mr. Cox:

I live at Nazareth, Pennsylvania, and am the head chemist of the Dexter Portland Cement Company. I have been head chemist since 1909. Before that I was assistant chemist for three years under Richard K. Meade.

A few years ago we put in waste heat boilers at the Dexter plant, and I have had charge of observing their operation since that time. On account of that, I have given particular attention to the operation of the kilns of the Dexter Company. We began operation of those boilers in October, 1918. Since then, or say beginning with the beginning of 1919, I have kept for my purposes in connection with those waste heat boilers the kiln hours of each individual kiln, and also the total number of kiln hours throughout the plant. I have accurate summaries of just the extent to which the kilns have been run during that period.

I think that 22 hours a day on an average, represents the best that can be done in operation. That is the way I figured it at the Dexter plant by average hours per day. During the year 1919, the Dexter kilns ran 82 per cent on a 365 day year. The average day run per kiln would be 82 per cent of 24 hours or about 19.7 hours out of the 24. That means productive hours. It does not

include the period while you are heating up before you can produce after a shut-down. It includes simply the productive hours.

[fol. 610] In 1920, the kilns ran 72.1 per cent. At the beginning of 1920, that is during January, February and March, there was a shortage of cars and we also began remodeling our stock house. At the end of March, we were 51,000 barrels behind in our orders. Then in April, we shipped as much as we were able to produce. In May we did just about the same. But at the beginning of May there was a coal shortage which cut down our production. It was causes of that kind which resulted in our falling a little behind the record of the year before.

In 1921, we ran 76.6 per cent. That is about 18.4 hours per day for each kiln, for the whole 365 days in the year. At the close of the year 1920 we were short of labor, and for that reason the mills and the kilns were not kept in very good repair, so at the beginning of 1921 it was necessary to do a good deal of repairing and also relining, and that resulted in temporary shut-downs and the lowering of our record.

In all of those three years we produced every barrel we could under the circumstances. That has been true of the Dexter mill ever since I have been with the Dexter.

[fol. 611] MORRIS FORTUIN, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:—

Direct examination by Mr. Cox:

I reside at Nazareth, Pennsylvania, and am mill manager of the Pennsylvania Cement Company. As mill manager I have charge of the operation of the plants. I have been mill manager of that company for 17 years. The company has a plant located at Bath, Pennsylvania. Bath is 5 miles from Nazareth. At the plant we have stone and cement rock. The rock in the Pennsylvania's quarry is of the right composition to make cement without getting material from the outside. In one part of the quarry we have high lime stone and in another part we have low and we mix the two together to get the proper proportion without going off our own property.

At our plant we have what we consider very good facilities for storing both finished cement and clinker. It is exceptionally large storage for the size of the plant. We have facilities for grinding the clinker into finished cement in excess of our burning. That is, we can grind more than we can burn in the kiln. Consequently, if we have considerable quantity of clinker stored, we can make large shipments by grinding up that surplus clinker and also all that is coming out of our kilns.

I keep a record of our kiln hours and monthly figure out the actual hours we operate in kiln hours. In other words, we have six kilns and we take the total number of hours that each kiln

[fol. 612] operated and compare that with the number of hours in the month, and we take that percentage as the operation.

The production is really left entirely to myself. I have never had instructions as to production. We have a policy as to that. The policy has always been that I should make more than I had been making. We always try to make all we can, but the officers feel we ought to make more.

I have a record of how much we have produced, compared with the amount that we would have produced if we could have run every hour of every day, all through the year. Beginning with the first year I have here, we ran 85.7 per cent for the year 1917. The hundred per cent would be the total number of hours in the whole year, that is 52,560 hours. Of those total hours in the year our kiln operation was 45,062 hours. That gives you 85.7 per cent operation. In 1918 we ran 72.3 per cent. In 1919, 85 per cent. In 1920, 78.3 per cent. In 1921, 91.2 per cent.

The fact that we got a better result in 1921 than in the former years is due to the fact that previous to 1921 we used to load our stone by hand and it was impossible to get enough stone up, in the winter months particularly, to keep our kilns going. We then put in electric shovels, which permits us now to keep our kilns supplied. In some of those earlier years, for instance, 1918, our production was more or less interfered with by conditions beyond our control. This percentage between our actual productive running of the kiln and the 100 per cent is accounted for by the fact that it is impossible to run every minute out of the 24 hours. We have done exceedingly well, I think, to run 85 per cent out of the possible hours in the year. I think that is exceptionally good—far better than we ever expected we could run.

Cross-examination by Mr. Fowler:

The total capacity of our mill per annum, if you base it on what we produced in 1921, would be about 1,400,000 barrels. That is 91 per cent and that is an extremely high percentage of operation. We produced more in 1921 than in 1920. We did not increase the capacity of the plant, but we produced more than we ever did before. We have six kilns. I don't know exactly what the Dexter has. Our plant is four miles away from the Dexter plant. I did know, but they are changing there, so I could not tell you at the present time whether they have more kilns installed or not.

I consider our mill one of the comparatively small ones, but we are about the largest of the group in that particular district of ours.

Our kilns would produce more than 400 barrels per day. It all depends on the size of your kiln as to what it will produce. We have three 7 feet 6 inches in diameter, 125 feet long, and then we have three kilns 9 feet in diameter, 125 feet long. Those larger kilns will each produce with good operating conditions, good coal, possibly 850 barrels a day. The smaller ones will each produce about 550.

In 1918 the company gave me a \$10,000 stock bonus. In 1919

they did not give me any stock bonus. I can't remember whether I got any cash bonus in 1919. As to 1920, let me see, 1920, I really don't know without figuring it out. I am not positive. I have been with Pennsylvania for 24 years.

[fol. 614] JAMES W. LAUDER, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

Direct examination by Mr. Cox:

I reside at Nazareth and am superintendent of the mill of the Nazareth Company, located there. I have been superintendent of the Nazareth Company about 14 years. The plant is in a triangle formed by two railroads, with a quarry behind it. As a result of that location of the plant, our practical capacity is limited by the room for the storage of clinker. We can store about 80,000 barrels. When our storage is full we have to stop running the plant.

Since the war, 1918, we have run the plant about 85 per cent, as nearly as I can recollect. I have not received instructions to shut down the plant at any time in the last 5 or 6 years, unless it was on account of the stock houses and clinker storage being full. Sometimes we have shut down on account of all the storage space being taken up. On those occasions I have conferred with the general manager and told him the conditions, that we would only be able to run a certain length of time, and we have run that length of time and then we had to stop. The stopping always came from me as the man in charge of the production. We made all that it was possible to make.

Cross-examination by Mr. Fowler:

We are in the Lehigh Valley district, possibly two miles or a mile and a half from Dexter and within about four miles of Pennsylvania. [fol. 615] We can run from 3,700 to 4,000 barrels per day. We have a somewhat larger capacity than Dexter. I don't know what Pennsylvania's daily capacity is. Our rock is almost a perfect cement rock. It is of the same character as the Dexter rock. As to cheapness of manufacture, of course the quarrying of the rock is not the whole cost.

I don't own any of the stock of the Nazareth Company. I am just an employee.

[fol. 616] Letter September 16, 1919, from Edison Company to Mr. Robert Cope, sales manager of Allentown Company, put in evidence. Defendants' Exhibit D-584, printed in Exhibit Book, p. —.

Invoice from Edison Company to Allentown Company, and letter September 18, 1919, put in evidence. Defendants' Exhibit D-585, printed in Exhibit Book, p. —.

Invoices of Security Company to Tidewater Company, dated November, 1918, put in evidence. Defendants' Exhibit D-586, printed in Exhibit Book, p. —.

Invoices of Hercules Corporation to Bath Company, put in evidence. Defendants' Exhibit D-587, printed in Exhibit Book, p. —.

Letter July 8, 1918, from Bath Company to Mr. Franks of Bath Company, put in evidence. Defendants' Exhibit D-588, printed in Exhibit Book, p. —.

Letter July 22, 1918, from J. F. Twamley, of the Bath Company, to Mr. Franks, of the Bath Company, put in evidence. Defendants' Exhibit D-589, printed in Exhibit Book, p. —.

[fol. 617] Letter December 22, 1911, from Mr. Weaver, of Allentown Company, to Mr. Breerwood, president of Acme Corporation, put in evidence. Defendants' Exhibit D-590, printed in Exhibit Book, p. —.

Letter December 23, 1919, from Acme Corporation, Catskill, N. Y., to Allentown Company, put in evidence. Defendants' Exhibit D-591, printed in Exhibit Book, p. —.

Letter August 4, 1920, from Acme Cement Corporation to Mr. Fuller, president of Allentown Company, put in evidence. Defendants' Exhibit D-592, printed in Exhibit Book, p. —.

Letter dated August 28, 1919, from Knickerbocker Company to Mr. Swett, of the Lehigh Company, put in evidence. Defendants' Exhibit D-593, printed in Exhibit Book, p. —.

Reply letter dated August 28, 1919, from Lehigh Company to Knickerbocker Company, put in evidence. Defendants' Exhibit D-594, printed in Exhibit Book, p. —.

[fol. 618] Letter dated August 30, 1919, from Lehigh Company to Knickerbocker Company, put in evidence. Defendants' Exhibit D-595, printed in Exhibit Book, p. —.

Letter dated September 12, 1919, from Mr. Swett of Lehigh Company to Mr. Daniels of Knickerbocker Company, put in evidence. Defendants' Exhibit D-596, printed in Exhibit Book, p. —.

Letter October 2, 1919, from Knickerbocker Company to the Lehigh Company, put in evidence. Defendants' Exhibit D-597, printed in Exhibit Book, p. —.

Letter October 16, 1919, from Lehigh Company to Mr. Naylor, of Knickerbocker Company, put in evidence. Defendants' Exhibit D-598, printed in Exhibit Book, p. —.

Letter January 9, 1920, from Giant Company to Sorco Pipe & Supply Company at Johnstown, Pa., put in evidence. Defendants' Exhibit D-599, printed in Exhibit Book, p. —.

Letter February 2, 1920, from Edison Company to The Clarksburg Coal Sales Company, Clarksburg, West Virginia, put in evidence. Defendants' Exhibit D-600, printed in Exhibit Book, p. —.

[fol. 619] Letter January 30, 1920, from the Clarksburg Coal Sales Company to the Edison Company, put in evidence. Defendants' Exhibit D-601, printed in Exhibit Book, p. —.

Letter February 4, 1920, from the Edison Company to Mr. Benjamin Bissel of the Century Coal Company, Baltimore, Maryland, put in evidence. Defendants' Exhibit D-602, printed in Exhibit Book, p. —.

Telegram March 10, 1920, from Edison Company to a long list

of coal companies, put in evidence. Defendants' Exhibit D-603, printed in Exhibit Book, p. —.

Telegram February 23, 1920, from Edison Company to various coal companies, put in evidence. Defendants' Exhibit D-604, printed in Exhibit Book, p. —.

Telegram February 25, 1920, from Edison Company to Bixler Coal & Coke Company, Pittsburgh, put in evidence. Defendants' Exhibit D-605, printed in Exhibit Book, p. —.

Letter March 9, 1920, from Edison Company to the Operators' Fuel Company at Philadelphia, put in evidence. Defendants' Exhibit D-606, printed in Exhibit Book, p. —.

[fol. 620] Letter March 8, 1920, from the Edison Company to Fisher-Summit Coal Company at Clarksburg, West Virginia, put in evidence. Defendants' Exhibit D-607, printed in Exhibit Book, p. —.

Letter March 24, 1920, from the Edison Company to Moore & Company, Incorporated, Philadelphia, Pa., put in evidence. Defendants' Exhibit D-608, printed in Exhibit Book, p. —.

Letter February 19, 1920, from the Giant Company to Philadelphia & Reading Railroad Company, put in evidence. Defendants' Exhibit D-609, printed in Exhibit Book, p. —.

Circular letter of Security Cement & Lime Company, dated February 21, 1920, put in evidence. Defendants' Exhibit D-610, printed in Exhibit Book, p. —.

Letter February 23, 1920, from Giant Company to American Hardware & Equipment Company at Charlotte, North Carolina, put in evidence. Defendants' Exhibit D-611, printed in Exhibit Book, p. —.

[fol. 621] Telegram March 1, 1920, from the Phoenix Company to Commonwealth Fuel Company, put in evidence. Defendants' Exhibit D-612, printed in Exhibit Book, p. —.

Letter March 1, 1920, from J. E. Long Coal Company to Penn-Allen Company, put in evidence. Defendants' Exhibit D-613, printed in Exhibit Book, p. —.

Letter March 3, 1920, from Giant Company to Mr. W. P. Rogers, of Springer & Rogers, 112 South Broadway, New Philadelphia, Ohio, put in evidence. Defendants' Exhibit D-614, printed in Exhibit Book, p. —.

Letter March 3, 1920, from Giant Company to the Thomas Hardware Company at Statesville, North Carolina, put in evidence. Defendants' Exhibit D-615, printed in Exhibit Book, p. —.

Telegram March 6, 1920, from Phoenix Company to Mr. George Paull, of the Commonwealth Fuel Company, at Pittsburgh, put in evidence. Defendants' Exhibit D-616, printed in Exhibit Book, p. —.

Letter March 17, 1920, from Giant Company to Mr. F. T. Brinkley, Division Freight Agent of the Norfolk & Western Railway, Winston-Salem, North Carolina, put in evidence. Defendants' Exhibit D-617, printed in Exhibit Book, p. —.

[fol. 622] Letter March 18, 1920, from Bath Company to George

W. Pack & Son, Inc., at Syracuse, New York, put in evidence. Defendants' Exhibit D-618, printed in Exhibit Book, p. —.

Letter March 17, 1920, from George W. Pack & Son, to Bath Company, put in evidence. Defendants' Exhibit D-619, printed in Exhibit Book, p. —.

Letter March 18, 1920, from the Giant Company to Mr. William C. Mallonee, of Robert G. Lassiter & Company, Norfolk, Virginia, put in evidence. Defendants' Exhibit D-620, printed in Exhibit Book, p. —.

Confirmation of telegram dated March 18, 1920, put in evidence. Defendants' Exhibit D-621, printed in Exhibit Book, p. —.

Letter April 17, 1920, from Bath Company to Hendrickson & Dilatush at Robbinsville, New Jersey, in reply to letter of Hendrickson & Dilatush dated April 16, 1920, to the Bath Company, put in evidence. Defendants' Exhibits D-622 and D-623, printed in Exhibit Book, pp. —.

[fol. 623] Telegram April 24, 1920, from Bath Company to Mr. C. T. Kingsburg, of the Rosslyn Steel & Cement Co., Woodward Building, Washington, D. C., put in evidence. Defendants' Exhibit D-624, printed in Exhibit Book, p. —.

Letter May 3, 1920, from Bath Company to Mr. W. J. Kenlon, put in evidence. Defendants' Exhibit D-625, printed in Exhibit Book, p. —.

Letter May 1, 1920, from Walter J. Kenlon of the Bath Company to Mr. Dutton of the Bath Company, put in evidence. Defendants' Exhibit D-626, printed in Exhibit Book, p. —.

Telegram May 3, 1920, from Giant Company to C. R. Capps, First Vice-President of the Seaboard Air Line Railway Company, at Norfolk, Virginia, put in evidence. Defendants' Exhibit D-627, printed in Exhibit Book, p. —.

Telegram May 4, 1920, from Mr. Capps to Giant Company, put in evidence. Defendants' Exhibit D-628, printed in Exhibit Book, p. —.

Telegram May 5, 1920, from Mr. George Paull, of the Commonwealth Fuel Company at Pittsburgh, to Mr. L. C. Morton, of the Phenix Company, put in evidence. Defendants' Exhibit D-629, printed in Exhibit Book, p. —.

[fol. 624] Reply telegram, May 6, 1920, Mr. Morton to Mr. Paull, put in evidence. Defendants' Exhibit D-630, printed in Exhibit Book, p. —.

Telegram May 6, 1920, from Mr. George Paull to Mr. L. C. Morton, put in evidence. Defendants' Exhibit D-631, printed in Exhibit Book, p. —.

Telegram May 7, 1920, from Commonwealth Fuel Company to Mr. L. C. Morton, put in evidence. Defendants' Exhibit D-632, printed in Exhibit Book, p. —.

Telegram May 10, 1920, from Mr. George Paull to Mr. Morton, put in evidence. Defendants' Exhibit D-633, printed in Exhibit Book, p. —.

Telegram May 12, 1920, from Commonwealth Fuel Company to

Mr. L. C. Morton, Vice-President of the Phoenix, put in evidence. Defendants' Exhibit D-634, printed in Exhibit Book, p. —.

Letter May 18, 1920, from Bath Company to Ohio Coal & Supply Company, put in evidence. Defendants' Exhibit D-635, printed in Exhibit Book, p. —.

[fol. 625] Letter May 22, 1920, from First Vice President of the Bath Company to Mr. Louis Rafetto, President of Bath Company, put in evidence. Defendants' Exhibit D-636, printed in Exhibit Book, p. —.

Circular of Alpha Company, dated May 24, 1920, put in evidence. Defendants' Exhibit D-637, printed in Exhibit Book, p. —.

[fol. 626] C. RAYMOND HULSART, a witness called on behalf of the defendants, being first duly sworn, testified as follows:

Direct examination by Mr. Cox:

I reside at New Rochelle and am vice-president of the Cement Manufacturers Protective Association. I am a civil engineer; a member of the American Society of Civil Engineers; was faculty lecturer on certain engineering subjects at New York University; I got my degree June, 1905; engaged in engineering work, principally construction, until April, 1917; then I went into the army; was in command of the first American troops who took part in a general engagement in the World War; the first American casualties were in my command; our Government gave me a Distinguished Service Cross for my services in the war; the British Government gave me its Military Medal; I became vice-president of the Cement Manufacturers Protective Association on March 1, 1920, and have been its vice-president continuously ever since.

My duties have been the general supervision of the association's activities and in particular the technical work involved in directing the activities of investigating contracts, directing the activities of the engineers who do that work and supervising their reports and the transcript that goes to the company. That is with a view to making them as accurate as possible, especially estimates of quantities involved. [fol. 627] I was also responsible for the annual report of the association which was put in evidence.

I have followed out in the reports of the Protective Association the contract investigations which were made in 1920 which are referred to in the annual report of the association for that year. During the year 1920 the Protective Association investigated 2,305 contracts. Of this number 1,392 contracts were found to be padded, the padding amounting to 3,552,865 barrels. That is the amount estimated in the contracts exceeded the amount actually required to complete the specific job by 3,552,865 barrels.

Of those 1,392 contracts, the companies holding those contracts, wholly or partially, cancelled after the receipt of the association's report, 978 contracts, the amount of cancellations involving 2,104,653

barrels. Of those 1,392 contracts wherein the estimated amounts exceeded the requirements, there were 414 contracts so reported that were not canceled by the companies holding the contracts, and those 414 contracts involved 1,448,212 barrels of excess cement over the requirements.

The time which elapsed on the average between the date of our report on the contract and the date of the cancellation or reduction of the amount averaged for all of those contracts 86 days per contract.

I have put together at your request a collection of about a thousand instances where the specific job contract reports, Form 10 of the Protective Association, show contracts reported as made on approximately the same date for the delivery of cement at the same delivery [fol. 628] point and at different prices. This is the collection.

Put in evidence Defendants' Exhibit D-641, printed in Exhibit Book, p. —.

These begin in January, 1919 and go through June, 1921. The first sheet contains contracts taken on approximately the same time and at the same delivery point, but at a different price from the contract report as of January 1, 1919. On the first page of that contract report, for instance, the Lehigh Company has a contract at Buffalo, New York, dated August 7, 1918, at a price of \$2.55. On the same page the Nazareth Company has a contract at Buffalo, New York, dated August 5, 1918, at a price of \$2.68, a difference of 13 cents.

In bringing together this collection, I did not make use of any cases where the difference in price was exceptional as due to different prices to the dealer and the purchaser. In many instances from the contract report it is practical to tell whether the price is to a dealer or consumer by the notation that the purchaser builds, or something of that kind. I did not use any instances that could be accounted for by the difference in prices to the dealer and to the consumer.

From the records of the association I have ascertained how long a time on the average elapsed between the making or closing of these specific job contracts and the date when the report of the contract reaches the association. That average elapsed time between the date of the cement contract and the receipt of the company's report in the association office is 8½ days. At the association we send it out to the companies the following day.

[fol. 629] Cross-examination by Mr. Fowler:

Immediately after I came out of the army I was employed in the New York office of the National Association about a year. I was not at their headquarter. I was in the New York office in connection with their local promotional work.

In making this collection, Exhibit D-641, I used less than half of the monthly contract reports. The period I covered was less than half the period.

Every time a fellow made a contract he reported it after a certain length of time. It averaged 8½ days.

Redirect examination by Mr. Cox:

A portion of the contracts that are reported in the report of one month or one quarter are different contracts from those reported in the succeeding month or succeeding quarter. A contract stays in these successive reports just as long as the contract is active; that is, until it is completed or otherwise becomes inactive. So a report for one month or one quarter would be very largely the same as the report for the succeeding month or the succeeding quarter. The report in each succeeding month will show the shipments during the other months and the balance outstanding. It keeps account of the progress of the contract.

[fol. 630] Letters put in evidence. Defendants' Exhibits D-642 to D-817, inclusive. Printed in Exhibit Book, pp. —, with the exception of the following, which are not printed by consent: D-355, D-684, D-696, D-774, D-783, D-790 and D-803.

[fol. 631] WALTER LEWIS, recalled as a witness for the Government in rebuttal, testified as follows:

Direct examination by Mr. Fowler:

I prepared this chart from a monthly supplement issued by the Department of Commerce, giving a survey of current business as of March, 1922. It is to illustrate how much the prices of the various commodities have receded in percentages.

Put in evidence Government's Exhibit No. 806, printed in Exhibit Book, p. —.

These pages represent data used in making the chart.

Put in evidence Government's Exhibits Nos. 804 and 805, printed in Exhibit Book, p. —.

The chart shows that by December, 1921, the price of anthracite coal had receded least of all. Cement had then receded in price the next smallest amount.

Cross-examination by Mr. Dorr:

Cement appears to be the commodity which advanced least in price towards peak prices, with the exception of rubber and cattle beef; and having gone up practically the least, it didn't have so far to come down as those which had gone up more.

Govt Ex. No. 3

FREIGHT RATES

INCLUDING WAR TAX ON

CEMENT

IN CENTS PER BARREL COTTON

FROM

UNIVERSAL

UNION BRIDGE

LEHIGH VALLEY

TO POINTS IN THE STATE OF

PENNSYLVANIA

ISSUED BY

Cement Manufacturers' Protective Association
19 WEST 44TH STREET, NEW YORK

PENNSYLVANIA

	Universal	Union Bridge	Lehigh Valley
Aberdeen	53	43	45
Abrams	53	43	37
Academy	53	43	41
Academy Corners	49	49	49
Ache Junction	35	49	53
Acheson	25	49	53
Ackermanville	61	53	22
Acorn	53	43	37
Acosta	35	49	51
Adah	35	49	53
Adams (Somerset Co.)	35	49	51
Adamsdale	53	45	37
Adamsville	37	55	59
Adelaide	33	49	53
Ajax	41	49	53
Akeley	43	49	53
Akron	53	43	39
Aladdin	27	49	53
Alba	49	49	43
Albany	53	49	39
Albert	53		37
Albion	37	55	59
Alburtis	53	49	31
Alden	53	49	37
Alderson	53	51	41
Aldham	53	43	45

[The balance of this Exhibit, which contains one hundred and thirty-five (135) pages, ~~will~~ not be printed by order of the Court.]

consent

637½

Govt Ex. No. 4

FREIGHT RATES

INCLUDING WAR TAX ON

CEMENT

IN CENTS PER BARREL COTTON

FROM

UNIVERSAL

LEHIGH VALLEY

TO POINTS IN THE STATE OF

NEW JERSEY

ISSUED BY

Cement Manufacturers' Protective Association
19 WEST 44TH STREET, NEW YORK

NEW JERSEY

	Universal	Lehigh Valley
Absecon	80	53
Ackerson	61	39
Agasote	61	37
Albion	72	49
Aldene	61	35
Allaire	80	47
Allamuchy	61	33
Allendale	61	43
Allenhurst	80	47
Allens	82	61
Allenwood	80	47
Alloway	72	51
Alloway Junction	72	51
Allwood	61	37
Alpha	61	27
Alphano	61	33
Amclay	61	39
Ampere	61	31
Ancora	72	51
Andover	61	35
Andrews	72	49
Anglesea	80	57
Annandale	61	37
Arlington	61	31
Asbury (Glon. Co.)....	72	49
Asbury Park	80	47
Ashbrook	61	35

[The balance of this Exhibit, which contains thirty-five (35) pages, ~~will not be printed by order of the~~ *consent* Court.]

638½

Govt Ex. No. 5

FREIGHT RATES
INCLUDING WAR TAX ON
CEMENT
IN CENTS PER BARREL COTTON
FROM
UNIVERSAL
UNION BRIDGE
LEHIGH VALLEY
TO POINTS IN THE STATES OF
MARYLAND
DELAWARE
AND
DISTRICT OF COLUMBIA

ISSUED BY
Cement Manufacturers' Protective Association
19 WEST 44TH STREET, NEW YORK

Govt. Ex. No. 5.

MARYLAND

	Universal	Union Bridge	Lehigh Valley
Abell's (St. Mary's Co.)	1.23	1.02	1.19
Aberdeen	53	41	45
Adamstown	49	31	49
Admiral	61	47	59
Aikin	53	41	45
Airey	61	57	57
Alberton	49	31	49
Alesia	49	25	45
Alexandria Jct.	49	35	47
Allegany	41	41	51
Allen's Wharf (Wicom- ico Co.)	1.08	86	1.04
Altamont	41	45	53
Ammendale	49	37	47
Andrews	61	57	57
Annapolis	63	47	57
Annapolis Jct.	49	37	47
Antietam	49	31	61
Arbutus	49	35	47
Arcadia	49	25	45
Ardwick	49	35	47
Arlington	49	20	45
Arnold	63	47	57
Arnold Street	49	20	45

[The balance of this Exhibit, which contains thirty-eight (38) pages, ~~will not be printed by order of the~~ [^] ~~Court.~~ *counsel*]

639½

Govt Ex. No. 6

FREIGHT RATES ON CEMENT

IN CENTS PER BARREL COTTON

FROM

LEHIGH VALLEY

ALSEN, N. Y.

HUDSON, N. Y.

UNIVERSAL, PA.

TO POINTS IN THE STATE OF

NEW YORK

Govt. Ex. No. 6.

NEW YORK

	Universal	Alsen	Hudson	L. V.
Abbots Road	30	40	40	36
Accord	48	32	37	35
Adams	48	38	38	44
Adams Basin	34	32	32	36
Adams Centre	48	38	38	44
Adams Crossing	63	40	22	45
Addison	40	34	34	34
Adrian	40	34	34	34
Afton	44	32	32	33
Akron	34	30	30	36
Akron Falls	34	30	30	36
Alabama	34	30	30	36
Alba	48			30
Albany	48	11	10	34
Albertson	59	46	46	46
Albion	34	32	32	36
Alden	34	36	36	36
Alder Creek	48	37	37	42
Aldrich (N. Y. C.)	55	46	46	52
Alexander	34	32	32	36
Alfred	34	36	36	36
Allegany	30	36	36	36
Almond	30	36	36	36
Alpine	40	34	34	33
Alsen	48		24	40
Altamont	48	22	22	34
Altmar	44	32	32	38

[The balance of this Exhibit, which contains seventy-five (75) printed and one typewritten page pasted on inside back cover, ~~will not be printed by order of the~~ *Consent*
~~Court~~ *Consent*]

640 1/2

Govt Ex. No. 7

FREIGHT RATES

INCLUDING WAR TAX ON

CEMENT

IN CENTS PER BARREL COTTON

FROM

UNIVERSAL, PA.

ALSEN, N. Y.

HUDSON, N. Y.

LEHIGH VALLEY

TO POINTS IN THE STATES OF

MAINE

NEW HAMPSHIRE

VERMONT

MASSACHUSETTS

RHODE ISLAND

CONNECTICUT

ISSUED BY

Cement Manufacturers' Protective Association

19 WEST 44TH STREET, NEW YORK

Govt. Ex. No. 7.

MAINE

	Universal	Alsen	Hudson	L. V.
Abbot Village	1.18	92	92	1.04
Adaline	1.49	1.21	1.21	1.31
Agamenticus	81	57	57	65
Albion	1.30	1.02	1.02	1.14
Alfred	81	57	57	65
Allan's Mill	1.26	1.02	1.02	1.10
Allens	95	67	67	78
Alna Center	1.26	98	98	1.10
Alton	1.14	92	92	98
Annabessacook	95	67	67	84
Anson	1.13	74	74	1.00
Arey	1.14	92	92	94
Ashland	1.46	1.23	1.23	1.29
Auburn	89	61	61	72
Augusta	95	67	67	78
Ayers Junction	1.26	1.02	1.02	1.10
Bakers	1.25	1.00	1.00	1.08
Bald Mountain	1.25	1.00	1.00	1.08
Bancroft	1.11	84	84	1.08
Bangor	95	68	68	78
Bangs	95	68	68	84
Bar Harbor	1.30	1.19	1.19	1.37
Baring	1.26	1.02	1.02	1.10
Bar Mills	81	57	57	65
Barnjum	1.81	1.57	1.57	1.64
Basin Mills	95	68	68	84
Bath	89	61	61	70

[The balance of this Exhibit, which contains seventy-six (76) pages, will not be printed by order of the Court.]

Consent

64 1/2

Govt Ex. No. 8

FREIGHT RATES ON CEMENT

IN CENTS PER BARREL COTTON

FROM

**LEHIGH VALLEY
UNION BRIDGE, MD.
UNIVERSAL, PA.**

TO POINTS IN THE STATES OF

**MARYLAND
DELAWARE
DISTRICT OF COLUMBIA**

Govt. Ex. No. 8.

Rates to left of Universal apply from Manheim, West Virginia. (~~Letter of Cement Mfg. Asso. of Feb. 7th, 1917.~~)

MARYLAND

		Universal	Union Bridge	Lehigh Valley
Abell's (St. Mary's Co.)		66		63
Aberdeen		40	28	33
Adamstown	33	36	19	36
Admiral		46		46
Aikin		40	28	33
Airey		48	44	44
Alberton	33	36	19	36
Alesia		36	14	33
Alexandria Jct.	33	36	23	34
Allegany	24	28	28	38
Allen's Siding		48	44	44
Allen's Wharf (Wicom- ico Co.)		66	56	63
Altamont	16	28	32	40
Ammendale	33	36	25	34
Andrews		48	43	44
Annapolis		49	34	43
Annapolis Jct.	33	36	25	34
Antietam	33	36	18	48
Appolds		48		48
Arbutus		36	23	34
Arcadia		36	14	33
Ardwick		36	23	34
Arlington		36	07	33
Arnold		49	34	43
Arnold Street		36	07	33

[The balance of this Exhibit, which contains thirty-eight (38) pages, ~~will not be printed by order of the~~ *Consent* Court.]

64 2½

Govt Ex. No. 9

FREIGHT RATES

INCLUDING WAR TAX ON

CEMENT

IN CENTS PER BARREL COTTON

FROM

UNIVERSAL, PA.

ALSEN, N. Y.

HUDSON, N. Y.

LEHIGH VALLEY

TO POINTS IN THE STATES OF

MAINE

NEW HAMPSHIRE

VERMONT

MASSACHUSETTS

RHODE ISLAND

CONNECTICUT

ISSUED

FEBRUARY, 1921

BY

Cement Manufacturers' Protective Association

19 WEST 44TH STREET, NEW YORK

Govt. Ex. No. 9.

MAINE

	Universal	Alsen	Hudson	L. V.
Abbot & Cleaves.....	2.72	2.35	2.35	2.56
Abbot Village	1.66	1.29	1.29	1.45
Adaline	2.07	1.70	1.70	1.84
Adams	1.90	1.53	1.53	1.59
Agamenticus	1.14	79	79	79
Albert	2.41	2.04	2.04	2.11
Alvion	1.88	1.48	1.48	1.53
Alfred	1.14	79	79	90
Allan's Mill	1.78	1.45	1.45	1.55
Allen Brook	1.33	1.27	1.27	1.10
Allens	1.33	93	93	99
Alna Center	1.82	1.42	1.42	1.48
Alton	1.66	1.29	1.29	1.37
Annabessacook	1.33	93	93	1.17
Anson	1.62	1.04	1.04	1.41
Arey	1.64	1.29	1.29	1.31
Aroostook Farm	2.11	1.74	1.74	1.80
Ashland	2.11	1.74	1.74	1.80
Ashland Mills	2.27	1.90	1.90	1.98
Attean	1.41	1.79	1.79	1.95
Auburn	1.25	85	85	1.01
Augusta	1.33	93	93	1.10
Austin Junction	1.70	1.37	1.25	1.47
Avon	2.23	1.86	1.86	2.07
Ayers Junction	1.78	1.45	1.45	1.55
Bakers	1.74	1.41	1.29	1.51
Bald Mountain	1.74	1.41	1.29	1.51
Bancroft	1.62	1.18	1.18	1.46

[The balance of this Exhibit, which contains eighty-three (83) pages, ~~will not be printed by order of the~~ *consent* Court.]

643½

Govt Ex. No. 10

FREIGHT RATES

INCLUDING WAR TAX ON

CEMENT

IN CENTS PER BARREL COTTON

FROM

UNIVERSAL, PA.

ALSEN, N. Y.

HUDSON, N. Y.

LEHIGH VALLEY, PA.

TO POINTS IN THE STATE OF

NEW YORK

ISSUED BY

Cement Manufacturers' Protective Association

19 WEST 44TH STREET, NEW YORK

Govt. Ex. No. 10.

NEW YORK

	Universal	Alsen	Hudson	L. V.
Accord	61	45	49	47
Adams	61	51	51	57
Adams Basin	47	45	45	49
Adams Centre	61	51	51	57
Adams Crossing	76	53	35	59
Addison	53	47	47	47
Adrian	53	47	47	47
Afton	57	45	45	45
Akron	47	43	43	49
Akron Falls	47	43	43	49
Alabama	47	43	43	49
Alba	61			43
Albany	61	23	22	47
Albertson	72	59	59	59
Albion	47	45	45	49
Alden	47	49	49	49
Alder Creek	61	49	49	55
Aldrich (N. Y. C.)	68	59	59	65
Alexander	47	45	45	49
Alfred	47	49	49	49
Alleghany	43	49	49	49
Almond	47	49	49	49
Aloquin	53	49	49	47
Alpine	53	47	47	45
Alsen	61		35	53
Altamont	61	35	35	47
Altamar	57	45	45	51

[The balance of this Exhibit, which contains seventy-five (75) pages, ~~will not be printed by order of the~~ *consent* Court.]

644½

Govt Ex. No. 11

FREIGHT RATES

INCLUDING WAR TAX ON

CEMENT

IN CENTS PER BARREL COTTON

FROM

KINGSPORT

UNIVERSAL

FORDWICK

UNION BRIDGE

LEHIGH VALLEY

TO POINTS IN THE STATE OF

VIRGINIA

ISSUED BY

Cement Manufacturers' Protective Association

19 WEST 44TH STREET, NEW YORK

Govt. Ex. No. 11.

VIRGINIA

	Kings- port	Uni- versal	Ford- wick	Union Bridge	Lehigh Valley
Abert		61	37	59	80
Abilene	90	72	53	74	82
Abingdon	45	98	67	74	1.10
Acca	70	61	33	47	53
Accotink Station		57	43	47	59
Adams Grove	78	82	68	72	82
Addington	47	1.12	86	94	1.31
Adsip	1.00	72	53	74	82
Afton		61	27	59	68
Agnor		61	33	59	82
Aiken Summit	82	98	53	88	98
Akers (N. & W.)	61	86	53	68	1.06
Alberene		73	55	68	78
Alberta	98	72	53	74	82
Alco		61	39	59	82
Alexanders	70	76	37	67	76
Alexandria		49	37	41	53
Alexandria Jct.		61	53	57	68
Algren	86	61	41	57	61
Alleghany Sta.		61	31	78	96
Allens Creek		61	43	59	84
Allisonia	63	88	53	68	1.06
Alms House	70	74	43	76	86
Alpha		72	43	70	78
Alpine		61	33	59	82
Alrich		82	63	68	74

[The balance of this Exhibit, which contains fifty-seven (57) pages, was not to be printed by order of the *Consent Court.*]

645 1/2

Govt Ex. No. 12

FREIGHT RATES

INCLUDING WAR TAX ON

CEMENT

IN CENTS PER BARREL COTTON

FROM

KINGSPORT

UNIVERSAL

FORDWICK

UNION BRIDGE

LEHIGH VALLEY

TO POINTS IN THE STATE OF

WEST VIRGINIA

ISSUED BY

Cement Manufacturers' Protective Association

19 WEST 44TH STREET, NEW YORK

Govt. Ex. No. 12.

WEST VIRGINIA

	Kings- port	Uni- versal	Ford- wick	Union Bridge	Lehigh Valley
Abbotts		68	53	84	90
Abney	70	80	59	1.00	1.02
Accoville		72	47	98	86
Ackerman		41	70	41	53
Acme		68	55	82	94
Ada	57	92	63	68	1.06
Admiralty		68	49	92	1.00
Adrian		49	61	61	76
Affinity	70	80	55	1.00	1.00
Albright		41	78	70	53
Alderson		61	39	84	1.00
Aldridge		49	49	37	49
Alemma		76	47	96	96
Algonquin (N. & W.)..	59	80	67	74	1.00
Allingdale		61	84	70	76
Alkire		53	57	45	53
Alpoca	63	80	63	92	1.00
Altman		68	53	88	98
Alton		61	84	70	76
Alum Creek		65	53	82	98
Amherstdale		72	47	98	86
Anawalt	65	94	72	74	1.10
Angerona		57	70	92	90

[The balance of this Exhibit, which contains sixty-one (61) pages, will not be printed by order of the Court.]

consent

[fol. 632] RUSSELL HARDY, called in rebuttal, testified as follows:—

Direct examination by Mr. Fowler:

I prepared this chart from the Survey of Current Business of the Department of Commerce, as of September, 1921. The publication was for September and shows the situation in August, 1921.

Chart put in evidence. Government's Exhibit No. 807, printed in Exhibit Book, p. —.

[fol. 633] Memorandum January 26, 1920, from Mr. Burch of the Atlas to Mr. Boeye, Mr. Conkling and Mr. McKenna, put in evidence. Government's Exhibit No. 808, printed in Exhibit Book, p. —.

Memorandum June 4, 1920, from Mr. Burch to Mr. MacFarland, put in evidence. Government's Exhibit No. 809, printed in Exhibit Book, p. —.

Memorandum June 24, 1920, from Mr. McConnell of Atlas Company, put in evidence. Government's Exhibit No. 810, printed in Exhibit Book, p. —.

Letter October 20, 1920, from Mr. McConnell to Mr. McKenna, put in evidence. Defendants' Exhibit D-820, printed in Exhibit Book, p. —.

Four contracts showing how instructions contained in letter of October 20, 1920 from Mr. McConnell to Mr. McKenna were carried out, put in evidence. Defendants' Exhibits D-821 to D-824, inclusive. Not printed by consent.

[fols. 634 & 635] Statements showing number of officers, their total salaries, and bonuses allowed by the defendant companies during years from 1916 to 1921, put in evidence. Government's Exhibits Nos. 811 to 829, inclusive, printed in Exhibit Book, p. —.

(Here follow Government's Exhibits Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, marked side folio pages 636-646, inclusive.)

[fol. 646½]

Govt. Ex. No. 13

Revised to January 1st, 1921

Outline of Plan for a Protective Association of Cement Manufacturers

Conspicuous among the evils from which every manufacturer of Portland Cement has long suffered have been certain notorious abuses arising from what amounts to fraudulent misrepresentation. The most common and flagrant instances are those which have to do with misrepresentation concerning contracts (known as "specific job contracts"), competitors' acts, and financial responsibility.

Although these abuses are too well known to require elaboration,

it may be desirable to look at an illustration of each, with a view to determining whether it is practicable in a measure to correct them:

(1) It has become common, for example, in cases of jobs in fact involving the use of, say, a thousand barrels of cement, for purchasers to contract with each of several manufacturers for, say, two thousand barrels of cement to be used on that specific job. This pernicious practice results in purchasers obtaining what, as a practical matter, amounts to an option extending over a long period; and, in the aggregate, such options induced by, and based on misrepresentation, impose on the manufacturer one-sided, uncertain obligations [fol. 647] covering a considerable portion of his output, frequently curtailing his business and resulting in loss.

It is apparent that such abuses could not exist if the truth were known. If the manufacturer knew the facts concerning the job, the amount of cement needed, whether his or some other cement was being used thereon, he would obviously be in a position to escape the disastrous consequences of such misrepresentations. The plan hereinunder outlined is designed to make the truth available and thus defeat such misrepresentations and their consequences.

(2) The second form of misrepresentation is illustrated by the common experience of every manufacturer of Portland cement with statements made to him not only by dealers but often by his own salesmen concerning competitor's practices, with the result that the manufacturer is deceived and imposed upon. In the following plan it is not proposed to provide the fullest relief against such misrepresentations, because reports of outstanding or active offers or quotations may be objectionable, but it is proposed to give the manufacturer an opportunity of checking the representations of dealers and salesmen by including with the information as to specific contracts, the price at which these past transactions have been closed, so that false statements may become less frequent.

(3) As to that kind of misrepresentations which have to do with credits, the plan explains itself. Here, again, the correction of the evils resulting from the misrepresentation is to be sought in making the truth available.

[fol. 647½] (4) In addition to the correction of these abuses by meeting misrepresentations with the truth to the extent indicated, the plan contemplates the giving of certain statistical information concerning the past, which has heretofore been available in less convenient form and is included because it may be included without much additional inconvenience to anyone.

(5) The plan further contemplates the compilation and publication of freight rates to relieve each manufacturer of the great burden of keeping track of this necessary information.

The mechanism contemplated consists of reports by members, handled by a Secretary, with sufficient clerical help, under control of the Association.

Meetings are to be held to deal with the business of the Association as outlined herein. To prevent any possible misconception concerning the nature or activities of the Association, all its proceedings at such meetings will be stenographically reported and preserved, with its records and correspondence, so that the whole truth concerning the Association can at any time be made plain.

[fol. 648]

Constitution

Article I

Name

The name of the Association shall be Cement Manufacturers Protective Association.

Article II

Members

Section 1. Any corporation, firm or individual engaged in the manufacture of Portland cement is eligible for membership.

Section 2. Any corporation, firm or individual eligible for membership may become a member of the Association upon being proposed by two members and elected by a majority of the members.

Section 3. Any member may resign at any time upon first discharging any indebtedness to the Association.

Section 4. Application for membership and resignations from membership must be transmitted in writing to the Secretary.

Section 5. Any member may be expelled for failure to pay any assessment within thirty days after payment is due or for failure to conform to the Constitution and By-Laws of the Association by the [fol. 648½] vote, expressed by secret or open ballot, of two-thirds of the members of the Association, provided two weeks' notice of the proposed action and an opportunity to be heard shall have first been given.

Article III

Objects

The objects of the Association are the collection and dissemination of such accurate information as may serve to protect each manufacturer against misrepresentation, deception and imposition and enable him to conduct his business exactly as he pleases in every respect and particular, free from misdirection by false or insufficient information concerning the matters following, to wit:

- (a) Information concerning credits.
- (b) Information concerning contracts which have been made for the delivery of cement, sufficiently complete to enable the manu-

facturer to protect himself against spurious contracts and like transactions induced by misrepresentation.

(c) Information concerning freight rates on cement.

(d) Statistical information as to production, stocks of cement and clinker on hand, and shipments.

Article IV

Meetings

Section 1. The regular meetings of the Association shall be held [fol. 649] the third Thursday of each month or at such dates and such places as the Association shall name. Due notice of meetings shall be sent to each member at least five days in advance.

Section 2. A majority of the members when present at any meeting shall constitute a quorum. Each membership shall have one vote.

Section 3. The meeting held in the month of January, in each year, shall be the Annual Meeting of the Association.

Article V

Officers

Section 1. The officers shall be a President, Vice-President, Secretary and Treasurer.

Section 2. All officers, except the Vice-President and Secretary, shall be elected at the Annual Meeting by the majority of the votes of those present and shall hold office for one year, or until their successors have been duly elected.

The Vice-President and Secretary shall be elected by the Association for such term as it may determine and may receive a salary, fixed by the Association.

Article VI

Expenditures and Funds

Section 1. The Association shall have power to employ such persons, incur such indebtedness, and fix such assessments, as may [fol. 649½] appear necessary to carry out the objects of the Association. All assessments shall be distributed among and paid by the members pro rata according to shipments during the preceding year from or into the territory covered by the service of the Association.

Article VII

Amendments

Section 1. This Constitution may be amended as follows: All proposed amendments must be in writing, signed by at least three members, and presented to the Secretary at least two weeks before the next meeting of the Association. In the notices of this meeting, the proposed amendment or amendments shall be presented. At the meeting, the proposed amendment or amendments may be discussed or amended. They shall then be sent out to letter ballot. If two-thirds of the total membership shall, by letter ballot, vote in favor of the amendment or amendments, it or they shall be adopted.

Article VIII

Freedom of Trade

No member of the Association shall enter into any arrangement, agreement or understanding of any nature or kind whatsoever, the object of which is to restrain trade, limit competition or accomplish any purpose contrary to the spirit or letter of the law or contrary to the objects of the Association, as set forth in this Constitution, [fol. 650] and membership in the Association shall be recognized as implying that the member is absolutely free to conduct his business exactly as he pleases in every respect and particular.

Full and complete minutes of all matters discussed at any meeting of the Association shall be kept and such minutes, together with all records, files and correspondence of the Association, shall be preserved and held open at all times to any public official or other person who may have any legitimate reason for desiring to be completely informed concerning any or all the activities or transactions of the Association.

By-Laws

Section 1. President.—The President shall preside at all meetings of the Association, and, in case of the equal division of the members voting on any question, cast the deciding vote. He shall also have power to call the Association together at such time and place as he may select and, upon the written request of five (5) members, he shall call a special meeting of the Association.

He shall see to the enforcement of the provisions of the Constitution and By-Laws and shall carry into execution all resolutions of the Association.

Section 2. Vice-President.—The Vice-President shall perform such duties in connection with the collection and dissemination of the information which it is the object of the Association to accomplish as may be assigned to his office by the Association.

[fol. 650½] Section 3. Treasurer.—The Treasurer shall perform the duties of the President in the absence of the latter, collect and receive all moneys of the Association and deposit the same in a depository to be designated by the Association, authorized to make payment from the funds of the Association on deposit with it as directed by resolutions of the Association. He shall keep proper books of account, which shall be open at all times to the inspection of the members of the Association, and at the close of his term of office he shall deliver to his successor all moneys, books, papers and other valuables belonging to the Association which shall be in his custody or possession.

Section 4. Secretary.—The Secretary shall keep a careful, full and complete record of all the meetings, discussions and transactions of the Association, give notice of all meetings of the Association, examine all bills, conduct the correspondence, collect, prepare and distribute the information contemplated by the Constitution as prescribed by these By-Laws, and perform such other duties as may be assigned to his office by the Association.

Section 5. Provision of Funds.—All assessments shall be fixed by majority vote of the Association and distributed among and paid by the members pro rata according to shipments during the preceding year from or into the territory covered by the service of the Association.

[fol. 651] Section 6. Voting Power.—At all meetings, each membership shall have one vote. Members may be represented at any meeting by authorized delegates, who shall be entitled to full rights and privileges of the members they represent, but only one vote shall be cast on behalf of each member.

Section 7. Meetings.—The Association shall meet monthly, the time and place of each meeting to be fixed by the Association. Special Meetings may be called whenever the President shall deem it necessary or upon request of five (5) members. A majority of all the members shall constitute a quorum. The order of business shall be as follows:

1. Roll Call.
2. Minutes of last meeting.
3. Election of new members.
4. Reports.
5. Unfinished business.
6. New business.
7. Election of officers.

Section 8. Collection and Distribution of Information.—On or before the fifth day of each calendar month, each member shall forward to the Secretary the following:

- (1) A statement of all accounts outstanding sixty (60) days or more and unpaid, giving the name and address of the debtor, total amount unpaid, and the time overdue specified by months.

[fol. 651½] A statement of all bills receivable on hand, giving name of purchaser, amount, date payable, and detail of account covered by note.

A list of accounts in attorneys' hands for collection.

(2) A statement of contracts which have been made and are in effect on the last day of the preceding calendar month, giving the following information with respect to each contract, namely, date of contract, the purchaser, the consumer, a full description of the work upon which the cement is to be used, the amount contracted for and amount yet to be delivered, the price, and the expiration date of contract. In addition to the foregoing monthly statements of contracts, as contracts are made during the month, the Secretary shall be notified as soon as possible.

(3) A statement of all contracts cancelled or reduced in amount during the preceding month.

(4) A statistical statement of production and shipments during the preceding calendar month and stock of cement and clinker on hand on the last day of the month.

Upon the receipt of the foregoing monthly statements, the Secretary shall forthwith put all the information contained therein in convenient form as directed by the Association and distribute the information thus prepared to the members reporting.

The Secretary shall also transmit the information thus prepared to the person performing corresponding duties in any other Association, collecting and distributing like information within the pur- [fol. 652] view of the Constitution, and receive and distribute to the members of this Association such information transmitted from such other Association, as may be from time to time directed by this Association.

The Secretary shall prepare and distribute among the members a complete schedule or schedules of freight rates, on cement, giving the rates for rail, water and rail and water shipments. Each member shall from time to time notify the Secretary of all changes of other facts of importance connected with such rates. The Secretary shall immediately advise all members of changes in freight rates by issuing supplements, revisions or otherwise, as may be most convenient.

Section 9. Amendment of By-Laws.—Amendment to these By-Laws may be proposed at any regular or special meeting of the Association, provided that it has been presented to the Secretary, signed by three (3) members, and a copy sent to each member in the notice of the meeting, and such proposed amendment may be discussed at such meeting and adopted by a two-thirds vote of those present, if it is in accord with the Constitution of the Association.

[fol. 652½]

Govt. Ex. No. 14

Form 20

From — —, 192-.

Contract No. —. Dated — —, 192-.

Purchaser: — —.

Address: — —.

Work: As described on the back hereof.

Location: — —.

Contractor: — —.

No. bbls.: —. Price: —. Del. pt.: —.

Date of Exp'n: — —, — —.

Give full and complete description below of the work, viz.—if a building give dimensions, character of construction, etc. If paving state what kind, giving yardage, thickness, mix, etc. Give exact locations and make description specific.

[fol. 653]

Govt. Ex. No. 15

Form 21

Company: — —.

Contract Number: —. Date: — —, — —.

Delivery Point: — —.

1. Completed — —, — —.

2. Cancelled — Bbls.

3. Decreased — Bbls.

4. Increased — Bbls.

5. Leaving balance due, — Bbls.

6. Date of expiration extended to — —, — —.

(Over)

Instructions

First. Whenever entire amount of contract has been shipped, check only (✓) in space opposite "Completed" (Line 1).

Second. If entire amount due on contract is cancelled enter number of barrels cancelled on Line 2.

Third. If portion of contract is cancelled, state number of barrels cancelled on Line 3 and balance still due on Line 5.

Fourth. If amount of contract is increased state number of barrels of increase on Line 4, and balance still due on Line 5.

(Here follow Government's Exhibits Nos. 16 and 17, marked side folio pages 654 and 655)

654

Govt Ex. No. 16

CEMENT MANUFACTURERS PROTECTIVE ASSOCIATION
CONTRACTS RECEIVED FEBRUARY 23RD, 1921.

FORM 7

Sheet #2365
New York
7198

	A. Lyth & Sons Co., Buffalo, N. Y.	Depew, N. Y.	Construction of New York State Highway known as road #1334, part 1, Depew, N. Y. (The People's Paving Company, Inc.)	Lehigh..... 2- 8-21	9- 1-21	3750*	3.41 C
1249	Douglas Dickson Co., Johnson City, N. Y.	Johnson City, N. Y.	150 houses, sidewalks, etc., Broad, Baldwin, Olive and Taber Sts., C. Fred Johnson Tract, Johnson City, N. Y. (Owner Builds)	Penna..... 2-19-21	10-31-21	5000*	3.54 H
1250	Douglas Dickson Co., Johnson City, N. Y.	Johnson City, N. Y.	Development work, Union and Ackley Streets, Riverside Drive for Terrace Land Company, Johnson City, N. Y. (Owner Builds)	Penna..... 2-19-21	10-31-21	2000*	3.54 M
1251	Yonkers Bldg. Sup. Co., Yonkers, N. Y.	Nepperlian, N. Y.	Hudson Tire Co. Bldg., Nepperlian, N. Y. (J. Mitchell, Inc.)	Penna..... 2-21-21	9- 1-21	5000*	3.40 F
1015	G. B. Raymond & Co., Long Island City, N. Y.	Richmond Hill, N. Y.	For use in construction of foundations for 15 houses, Richmond Hill, N. Y. (Frank Soverio)	Herecules.... 2-18-21	12-31-21	1500*	3.40 H
MT-11342	John P. Kane Co., New York City.	New York City.	To complete requirements for Mail & Express Bldg., Lexington Ave. & 46th St., N. Y. C. Owners—N. Y. Central R. R. Co. (Traitel Marble Company)	Atlas..... 2-19-21	9-30-21	1500*	3.40 J
MT-11341	John P. Kane Co., New York City.	New York City.	To complete requirements for Mail & Express Bldg., Lexington Ave. & 46th St., N. Y. City. Owner—N. Y. Central R. R. Co. (Bldg. Matl. Supply Company)	Atlas..... 2-19-21	9-30-21	3500*	3.40 J
D-503	Thomas Cox Co., Inc., Niagara Falls, N. Y.	Niagara Falls, N. Y.	Three story concrete bldg., Corner 19th & Park Ave., for the Niagara Falls Heating & Eng. Co., Niagara Falls, N. Y. (Owner Builds)	Alpha..... 2-17-21	7- 1-21	600*	3.41 F
D-504	Thomas Cox Co., Inc., Niagara Falls, N. Y.	Niagara Falls, N. Y.	Foundations Cellars & Walks for eight houses, on Portage St. & Robinson Court, Niagara Falls, N. Y. (Allen & Smith Company)	Alpha..... 2-17-21	7- 1-21	400*	3.41 H
Philadelphia 3261-781	Chas. V. Walsh, Philadelphia, Pa.	Philadelphia, Pa.	Constr. 47 concrete houses, Allman Street, between 65th & 66th Sts., Philadelphia, Pa. (Charles White)	Penn Allen.. 2-21-21	10- 1-21	2500*	3.53 H
Connecticut NR 10259	Sturges & Son, W. Cornwall, Conn.	W. Cornwall, Conn.	Construction of a residence and out buildings, on the Martin Estate at W. Cornwall, Conn. (F. H. Wakeham)	Atlas..... 2-16-21	12- 1-21	4000*	3.82 H
Vermont P-1133	D. M. Miles Coal Co., Barre, Vt.	Barre, Vt.	Street paving, North Main St., City of Barre, Vt. (Work to be done by Owner)	Giant..... 2-11-21	12-31-21	2500*	4.04 K
Maryland VA-103	E. B. Pritchard & Co., Frostburg, Md.	Allegheny, Md.	Factory bldg. for the Big Savage Fire Brick Co., Alle- ghany, Md. (Owner Builds)	Alpha..... 2-21-21	12-31-21	5000*	3.37 F

CEMENT MANUFACTURERS PROTECTIVE ASSOCIATION
SUMMARY OF CONTRACTS JANUARY 11TH, 1921.

FORM 8

Company	Contracts Closed Since January 1st Report		Total Contracts in Bbls.		Contracts Cancelled Since January 1st Report		Total Contracts in Bbls.		Reinstatements and Increases		Decreases	
	Number of Contracts Today	to Date	Today	to Date	Number of Contracts Today	to Date	Today	to Date	Today	to Date	Today	to Date
Allentown												
Alpha		2		3,400		75		427,333		4,000		
Atlas		7		26,173		17		20,702				
Bath					3	16	22,618	75,598				
Coplay	1	5	2,000	6,500	1	24	12	32,342				
Dexter					1	21	675	39,888		2,100		
Edison						12		72,223				
Giant		1		20,000		29		133,434				
Hercules						15		51,047				17,000
Knickerbocker		1		2,750						11,208		25,535
Lawrence						1		800				
Lehigh	1	3	5,000	6,389	49	109	176,157	323,768				420
Nazareth		1		1,000		45		108,339				400
Penn Allen						9		9,846				
Pennsylvania		1		2,000		80		228,953				14,807
Phoenix						16		49,215				
Vulcanite		6		42,933		7		36,289		1,328		
Total	2	27	7,000	111,145 18,636	54	476	199,462	1,609,777 58,162		18,636		58,162
				129,781				1,667,939				

[fol. 656]

GOVT. EX. NO. 18

Form 1

Cement Manufacturers' Protective Association,
19 West 44th Street, New York

Date: — —, —.

Cement Manufacturers' Protective Association, 19 West 44th Street,
New York.

GENTLEMEN: We desire to call attention to specific contract No. —
for — Brand of Cement for — barrels sold to — — for de-
livery at — with remarks as indicated by check marks herein.

(Check)

- 1. This contract appears — be a duplication of — Com-
pany's No. —.
- 2. We believe that if this job is investigated it will be found
that the amount contracted for is more than the quantity
required.
- 3. We know of no such work under construction or contem-
plated.
- 4. The construction work covered by this contract was com-
pleted — months ago.

[fol. 657]

- 5. We are informed that the company shown as the contractors
on this work have never been awarded a contract.
- 6. We are informed that the work in question has been in-
definitely postponed, for the reason that —.
- 7. We have reason to believe that cement under this contract
is being diverted to other work.

Yours truly, — —.

(This form to be used by members in calling the attention to
"Specific Contracts" upon which they desire further information.)

[fol. 657½]

GOVT. EX. NO. 19

Form 2

Cement Manufacturers' Protective Association,
19 West 44th Street, New York

Buildings

No. —. Brand, —. Delivery Point, —.
Description of Work: —.

Location: —, (St. and No.) —.
 Contractor or Owner: — —. Architect: — —.
 Purchaser: — —. Total Am't of Contract: —.
 Has above contractor been awarded this work? —.
 Has work started? —. If so, when? —.
 Is foundation in? —. Is superstructure started? —.
 How many floors are completed? —.
 How many floors to be finished? —.
 How much cement did each floor take? —.
 Give dimensions of building. —.
 What kind of construction—steel, reinforced concrete, etc? —.
 How much cement does contractor say he has used? —.
 How much more cement does contractor say he will use? —.
 [fol. 658] What other brands are being furnished for this work?
 — —.
 If work has not started state date it will go ahead. —.
 Estimate date of completion. —.
 Is any of the cement under this contract to be furnished to sub-
 contractors? —.
 How much cement dealer's books show has been used? —.
 Source of information: —.
 Remarks: —.
 Date: — —, — —.

(Signed) — —.

This Form is to be used by the Auditor of the Work.

[fol. 658½]

Govt. Ex. No. 20

Form 3

Cement Manufacturers' Protective Association,

19 West 44th Street, New York

Paving, Curbs, and Sidewalks

No., —. Brand, —. Delivery Point, —.
 Name of Streets: —.
 City or Town: —. Total Am't of Contract: —.
 Purchaser: —. Contractor: — —.
 Has above contractor been awarded these streets? —.
 Has work started? —. If so, when? —.
 How much cement does contractor say he has used? —.
 How much cement does contractor say he will use? —.
 Does contract cover full requirements? —. If not, what
 part? —.
 What other brands used? —.
 Condition of Work? —.

If work has not started state date it will go ahead? ____.

Estimate date of completion? ____.

[fol. 659] Kind of Paving. ____ Sq. yds.? ____ Cement required: ____ bbl.

Kind of Sidewalks? ____ Sq. yds.? Cement required: ____ bbl.

Lin. ft. Curb and Gutter: ____ Cement required: ____ bbl.

Total, ____.

Source of information? ____.

Remarks: ____.

Date: ____ —, ____.

(Signed) ____ —.

This form to be used by auditor on the work.

[fol. 659½]

Govt. Ex. No. 21

Form 5

Cement Manufacturers' Protective Association,

19 West 44th Street, New York

Audit No. ____.

Contract: ____.

Date: ____ —, ____.

GENTLEMEN: The work covered by the above contract has been investigated and the facts as reported by the auditor are given below.

Kindly advise us whether the foregoing accords with your information and as to the standing of this contract. Unless we hear from you to the contrary by ____ —, ____, this audit will be considered complete and so reported.

Cement Manufacturers' Protective Association, per ____ —.

(This form will be used by the Association when submitting information on an audited contract to the manufacturers having the contract for comparison with information in possession of the manufacturer.)

[fol. 660]

Form 5A

Cement Manufacturers' Protective Association,
19 West 44th Street, New York

Audit No.: —.

Contract: —.

Date: — —, —.

GENTLEMEN: The work covered by the above contract has been investigated and the facts as reported by the auditor are given below:

[fol. 660½]

Form 5B

Audit No.: —.

Sheet: —.

Contract: —.

Kindly advise us whether the foregoing accords with your information and as to the standing of this contract. Unless we hear from you to the contrary by — —, — —, this audit will be considered complete and so reported.

Cement Manufacturers' Protective Association, per — —.

(This form will be used by the Association when submitting information on an audited contract to the manufacturers having the contract for comparison with information in possession of the manufacturer).

[fol. 661]

Govt. Ex. No. 22

Form 6

Cement Manufacturers' Protective Association
19 West 44th Street, New York, N. Y.

— —, 191.

GENTLEMEN: Referring to your report File —; date — —, — —.

Check here

1. We find your report is correct.
2. We are making further investigation.
3. We desire you to make further investigation for the reasons noted below.
4. Your report has been compared with our information and we submit below additional facts.

Manufacturers to use this form in reply to Form No. 5.

(Here follows Government's Exhibit No. 23, marked side folio page 662)



662

MONTHLY REPORT

DATE _____ 191 _____

No.	BAL. DUE PREVIOUS MONTH	BALANCE NOW DUE

Govt Ex. No. 26

CONTRACT REPORT, SEPTEMBER 1, 1920

CEMENT MANUFACTURERS' PROTECTIVE
ASSOCIATION
NEW YORK, N. Y.

Name of Party With Whom Contract is Made	Delivery Point	Description of Work	Name of Company	Date Contract Closed	Expiration Date	Barrels Sold	Dr. Price Inc. Pkg.	Shipments Since Last Report	Shipments to Date	Balance Unshipped
B-11117 James Elms	Auburn, Me.	Pavement, Knight St., Franklin St., North Main St., School St., Spring St., Broad St. and South Main St., sidewalks in section, New Auburn, Park Hill, Golf Hill, Perryville and Auburn Proper, Auburn, Maine. (City builds)	Atlas	3-17-20	11-1-20	2,500	3.06 K	982	1,184	1,316
B-10996 Purlington Bros. Co.	Augusta, Me.	Reinforced Concrete Storehouse, 6 story, 135x65, Edwards Mfg. Co., Augusta, Me. (H. F. Cummings Constr. Co.) Lockwood Green & Co., Boston, Engineers	Atlas	12-23-19	12-31-20	10,000	3.12 F	3,638	6,263	3,737
B-10958 R. B. Dunning & Co.	Bangor, Me.	Paving Hammond St., west of Kenduskeag Bridge, concrete base, granite blocks, cement grouted (2,500 sq. yds.) City of Bangor. (Owner bids)	Atlas	12-18-19	7-15-20	750	3.13 K			Overshipped
2311 Pignat Vitrail Mosaic Co.	Bangor, Me.	Tile Setting and Granolithic Floors for 18th St. School, Bangor, Me. (Purchaser)	Coplay	1-6-20	7-1-20	173	3.23 H			173
B-688 Eastern Cement Co.	Bangor, Me.	State Street Paving Job, Bangor, Me. (Owner builds)	Alpha	4-9-20	12-31-20	4,000	3.13 K	1,184	1,877	2,123
B-690 Eastern Cement Co.	Bangor, Me.	Paving Main St., Bangor, Me. (Owner builds)	Alpha	4-9-20	12-31-20	1,200	3.13 K			1,200
B-689 Eastern Cement Co.	Bangor, Me.	Paving Hammond St., Bangor, Me. (Owner builds)	Alpha	4-9-20	12-31-20	1,200	3.13 K			1,200
B-11123 Cooper & Co.	Belfast, Me.	Concrete bridge, Belfast, Me., State of Maine, Owners. To be built under plans of Maine State Highway Co., Augusta, Me. (Owner builds)	Atlas	3-24-20	12-31-20	20,000	3.13 B	4,013	4,013	15,987
B-11025 Andrews & Horigan Co.	Biddeford, Me.	Foundations for Machinery Pepperell Mfg. Co., Biddeford, Me. (Owners bld.)	Atlas	1-13-20	5-1-20	1,200	3.00 M	1,155	1,155	45
2184 Portland Stoneware Co.	Biddeford, Me.	Saco-Lowell Job, Biddeford, Me. (Aberthaw Constr. Co.)	Lawrence	12-31-19	12-31-20	45,000	3.00 M	17,723	18,947	26,053
B-11011 Eaton Hardware Co.	Brunswick, Me.	Dam, Electric Power Station and Addition to Mill, owned by Cabot Mfg. Co., Brunswick, Me. (Owners build)	Atlas	1-17-20	12-31-20	12,500	3.06 F	808	808	11,692

[The balance of this Exhibit which contains one hundred and thirty (130) pages will not be printed by order of the Court.]

Consent.

[fol. 663]

Govt. Ex. No. 24

Form 13

Percentage of Commitments Compared with Shipments for Past
Twelve Months

	June 1st, 1920.	
	1919	1920
Allentown	32%	121%
Alpha	11%	83%
Atlas	13%	55%
Bath	27%	70%
Coplay	52%	83%
Dexter	22%	93%
Edison	18%	82%
Giant	27%	117%
Herecules	34%	131%
Knickerbocker	14%	83%
Lawrence	20%	135%
Lehigh	19%	83%
Nazareth	24%	177%
Penn Allen	12%	57%
Pennsylvania	33%	105%
Phoenix	14%	185%
Vulcanite	28%	79%

[fol. 663½] Not printed. This Exhibit is a duplicate of Gov. Ex. 423 which is printed in full p. —.

(Here follows Government's Exhibit No. 26, marked side folio pages 664 and 665)

[fols. 666 & 667]

Govt. Ex. No. 27

Not printed. This Exhibit is a duplicate of Government Exhibit 466 which is printed in full at p. —.

[fol. 668]

Govt. Ex. No. 28

Form 23

Cement Manufacturers Protective Association

Following are the statistics of the — Co. for the month of February, 1921:

Clinker Produced

1st 2 months of 1920.....	Bbls.
1st 2 months of 1921.....	Bbls.
February, 1920	Bbls.
February, 1921	Bbls.

Cement Ground

1st 2 months of 1920.....	Bbls.
1st 2 months of 1921	Bbls.
February, 1920	Bbls.
February, 1921	Bbls.

Total Shipment

1st 2 months of 1920.....	Bbls.
1st 2 months of 1921	Bbls.
February, 1920	Bbls.
February, 1921	Bbls.

[668½]

Stock on Hand

Clinker January 31st, 1921.....	Bbls.
Clinker February 28th, 1920	Bbls.
Clinker February 28th, 1921.....	Bbls.
Cement January 31st, 1921	Bbls.
Cement February 28th, 1920	Bbls.
Cement February 28th, 1921	Bbls.

NOTE.—Please fill out and return to this office by March 4th, 1921.

19 West 44th Street, New York, N. Y.

[fol. 669-674]

Govt. Ex. No. 29

Not printed. This Exhibit is a duplicate of Government Exhibit 34 which is printed in full at p. —.

(Here follow Government's Exhibits Nos. 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, marked side folio pages 675-701 inclusive)

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF JANUARY, 1919

MANUFACTURERS	TOTAL PRODUCTION CLINKER				CEMENT GROUND				SHIPMENTS				STOCK ON HAND				CEMENT			
	% Change	Jan. 1918	Jan. 1919	% Change	% Change	Jan. 1918	Jan. 1919	% Change	% Change	Jan. 1918	Jan. 1919	% Change	Dec. 31 1918	Jan. 31 1918	Jan. 31 1919	% Change	Dec. 31 1918	Jan. 31 1918	Jan. 31 1919	% Change
Albiontown		0	24			0	24			12	13	+ 8	17	5	17	+240	60	63	71	+13
Alpha		66	84	+27		86	33	-62		65	48	-26	280	244	331	+36	482	434	466	+ 7
Allen																				
Atlas		228	325	+43		228	325	+43		164	221	+35	0	0	0		781	485	885	+82
Bath		0	0			6	0			4	15	+275	82	25	82	+228	91	46	76	+65
Cayuga	See note below.																			
Coplay		68	48	-29		67	48	-28		34	40	+18	90	97	90	- 7	67	93	76	-18
Dexter		37	60	+62		41	61	+49		13	133	+154	40	36	32	-11	26	56	54	- 4
Edison		0	107			0	97			35	26	-26	35	30	45	+50	182	149	254	+70
Giant L. V.		24	0			24	0			30	22	-27	1	0	1		56	45	34	-24
Giant Norfolk [†]																				
Glens Falls		20	36	+80		13	34	+162		13	10	-23	9	59	11	-81	143	204	166	-19
Helderberg																				
Hercules		0	18			0	30			6	27	+350	28	21	16	-24	11	41	15	-63
Knickerbocker		29	90	+210		30	93	+210		11	21	+91	88	109	**66	-39	144	159	216	+36
Lawrence		50	82	+64		8	84	+950		22	22	0	48	102	49	-52	88	139	150	+ 8
Lehigh		149	149	0		159	193	+21		92	118	+28	16	6	7	+17	661	388	735	+89
Nazareth		0	65			0	64			17	15	-12	34	31	36	+16	111	118	160	+36
Penn-Allen		0	0			0	0			9	13	+44	0	0	0		64	103	51	-50
Pennsylvania		71	130	+83		51	77	+51		21	38	+81	26	35	79	+126	81	117	120	+ 3
Phoenix		0	0			4	0			5	***		23	23	23	0	x	77	x	
Security		13	13	0		14	5	-64		19	13	-32	28	20	36	+80	54	69	47	-32
Virginia																				
Vulcanite		45	0			48	0			27	25	- 7	2	5	2	-60	73	75	149	-35
TOTAL		800	1231	+54		779	1168	+50		599	720	+20	847	848	923	+ 9	3175	2861	3625	+27

ALL AMOUNTS SHOWN ARE IN THOUSANDS.

† 15,397 bbls. of this amount shipped for another mill.
 ‡ No further reports will appear for Norfolk Mill as operation of this plant has been abandoned.
 ** Their Clinker storage is not housed and therefore being exposed to weather conditions since 1918, they made a 23% deduction from their previous inventory record to cover depreciation and shrinkage.
 *** 15,403 bbls. shipped for their account by other mills.
 X Stock overruns, will advise the amount when same is all sold.
 † Includes 1,582 bbls. excess due to bin cleaning.
 Note.—Cayuga figures combined with Pennsylvania.

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF FEBRUARY, 1919

MANUFACTURERS	TOTAL PRODUCTION CEMENT						CEMENT GRIND						SHIPMENTS						STOCK ON HAND							
	First 2 Mos. 1918	First 2 Mos. 1919	% Change	Feb. 1918	Feb. 1919	% Change	First 2 Mos. 1918	First 2 Mos. 1919	% Change	Feb. 1918	Feb. 1919	% Change	First 2 Mos. 1918	First 2 Mos. 1919	% Change	Feb. 1918	Feb. 1919	% Change	Jan. 31 1919	Feb. 28 1918	Feb. 28 1919	% Change	Jan. 31 1919	Feb. 28 1918	Feb. 28 1919	% Change
Allentown	0	55		0	31	*	0	55		0	31		24	28	+17	12	16	+33	17	5	17	+240	71	51	86	+69
Alpha	106	164	+55	40	81	+103	138	107	-22	52	74	+42	166	113	-32	101	65	-36	331	231	337	+46	466	385	476	+24
Allen																										
Atlas	589	665	+13	361	341	-6	589	665	+13	362	341	-6	452	448	-1	288	227	-21	0	0	0		885	558	999	+79
Bath	3	31	+933	3	31	+933	6	14	+133	0	14		17	34	+100	12	19	+58	82	29	100	+245	76	34	71	+109
Cayuga	See note below.																									
Coplay	125	67	-46	57	18	-68	124	91	-27	57	42	-26	82	67	-18	47	27	-43	90	97	66	-32	76	103	91	-12
Dexter	71	114	+61	34	55	+62	68	113	+66	27	53	+96	41	164	+56	28	*31	+11	32	42	34	-19	54	55	76	+38
Edison	0	213		0	106		0	208		0	111		81	52	-36	46	26	-43	45	30	40	+33	254	102	338	+231
Giant L. V.	62	63	+2	38	39	+3	62	63	+2	38	39	+3	57	63	+11	27	33	+22	1	0	1		34	57	40	-30
Giant Norfolk																										
Glens Falls	47	85	+81	28	49	+75	31	83	+168	18	49	+172	26	21	-19	13	10	-23	11	67	11	-83	166	209	205	-2
Helderberg																										
Hercules	0	65		0	47		0	65		0	35		27	42	+55	21	15	-29	16	21	28	+33	15	21	34	+62
Knickerbocker	75	162	+116	45	72	+60	78	167	+114	47	74	+57	30	34	+13	19	13	-32	66	109	66	-39	216	187	277	+48
Lawrence	109	137	+26	59	55	-7	69	102	+48	61	18	-70	70	44	-37	48	22	-54	49	102	86	-16	150	152	146	-4
Lehigh	329	329	0	180	180	0	346	404	+17	187	211	+13	232	240	+3	140	122	-13	7	5	3	-40	735	435	824	+89
Nazareth	10	161	+1510	10	96	+860	10	177	+1670	10	113	+1030	49	47	-4	31	32	+3	36	31	22	-29	160	96	241	+151
Penn-Allen	0	48		0	48		0	48		0	48		36	32	-11	27	19	-30	0	0	0		51	76	81	+7
Pennsylvania	**147	220	+50	76	91	+20	112	97	-13	61	21	-66	69	66	-4	40	28	-30	79	82	149	+82	120	197	112	-43
Phoenix	0	0		0	0		4	0		0	0		15	#		10	†		23	23	23	0	x	66	x	
Security	40	34	-15	27	21	-22	45	29	-36	31	24	-23	59	33	-44	40	21	-48	36	17	34	+100	47	60	50	-17
Virginia																										
Vulcanite	107	31	-71	62	31	-50	112	33	-71	64	31	-52	71	51	-28	44	25	-43	2	3	3	0	49	96	55	-43
TOTAL	1820	2644	+45	1020	1392	+36	1794	2521	+41	1015	1329	+31	1604	1479	-8	994	751	-24	923	894	1020	+14	3625	2940	4202	+43

* Includes 12,451 bbls. shipped for account of another mill.

** Includes figures for Cayuga plant.

† 12,451 bbls. shipped for their account by another mill.

X Stock overruns, will advise amount when same is all sold.

‡ Included in this amount are 27,844 bbls. shipped for account of another mill.

27,854 bbls. shipped for their account by other mills.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF MARCH, 1919

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 3 Mos 1918	First 3 Mos. 1919	% Change	March 1918	March 1919	% Change	First 3 Mos. 1918	First 3 Mos. 1919	% Change	March 1918	March 1919	% Change	First 3 Mos 1918	First 3 Mos 1919	% Change	March 1918	March 1919	% Change	Feb. 28 1919	CLINKER			CEMENT			
																				March 31 1918	March 31 1919	% Change	Feb. 28 1919	March 31 1918	March 31 1919	% Change
Allentown	8	95	+1088	8	40	+400	7	95	+1257	7	40	+471	66	60	—0	42	31	—26	17	6	17	+183	86	16	95	+494
Alpha	215	169	—21	109	4	—96	238	110	—54	101	3	—97	373	240	—36	207	127	—39	337	239	338	+41	476	279	352	+26
Alsen																										
Atlas	1064	1151	+8	475	485	+2	1066	1151	+8	476	485	+2	921	727	—21	469	279	—41	0	0	0		909	564	1205	+114
Bath	47	75	+60	43	43	0	46	66	+43	39	53	+36	57	84	+47	40	50	+25	100	33	91	+176	71	33	73	+121
Cayuga																										
Coplay	216	93	—57	91	27	—70	216	164	—24	92	73	—21	178	117	—34	96	50	—48	66	96	19	—80	91	99	115	+16
Dexter	95	182	+92	24	67	+179	109	154	+41	41	41	0	107	*119	+11	66	**55	—17	34	25	60	+140	76	30	62	+107
Edison	21	325	+1448	21	111	+429	32	324	+913	32	115	+259	178	99	—44	97	53	—45	40	20	36	+80	346	37	408	+1003
Giant L. V.	117	111	—5	56	48	—14	117	111	—5	56	48	—14	130	110	—15	73	47	—36	1	0	1		40	39	41	+5
Giant Norfolk																										
Glens Falls	81	135	+67	33	50	+52	61	128	+110	30	45	+50	19	34	—31	23	13	—43	11	70	16	—77	205	215	236	+10
Helderberg																										
Hercules	0	109		0	44		20	101	+405	20	36	+80	56	69	+23	29	26	—10	28	1	36	+3500	34	11	44	+300
Knickerbocker	111	162	+46	36	0		115	167	+45	38	0		71	75	+6	41	41	0	66	109	65	—39	277	184	235	+28
Lawrence	189	198	+5	80	61	—24	115	151	+31	46	48	+4	147	84	—43	77	40	—48	86	138	101	—26	136	121	154	+27
Lehigh	448	538	+20	119	210	+76	495	626	+26	150	222	+48	509	417	—18	277	177	—36	2	4	5	+25	824	308	870	+182
Nazareth	114	273	+139	104	112	+8	116	252	+117	106	75	—29	103	103	0	54	55	+2	22	31	60	+94	241	148	260	+76
Penn-Allen	10	108	+980	10	60	+500	10	108	+980	10	60	+500	84	58	—31	48	26	—46	0	0	0		81	38	114	+200
Pennsylvania ¹	204	296	+45	56	75	+34	271	143	—47	71	45	—37	165	124	—25	97	58	—40	149	67	179	+167	112	170	99	—42
Phoenix	0	0		0	0		4	0		0	0		35	XX		20	†		23	23	23	0	x	46	x	
Security	105	109	+4	65	75	+15	98	93	—5	52	65	+25	119	86	—28	60	53	—12	34	31	47	+52	50	52	62	+19
Virginia																										
Vulcanite	182	81	—56	75	49	—35	185	79	—57	73	48	—34	139	97	—30	68	47	—31	3	5	4	—20	55	101	56	—45
TOTAL	3227	4210	+30	1495	1561	+11	3321	4023	+21	1440	1502	+4	3487	2703	—22	1884	1226	—35	1919	898	1099	+22	4210	2491	4481	+80

* Includes 48,272 bbls. shipped for account of another mill.
 ** Includes 21,442 bbls. shipped for account of another mill.
 x 48,990 bbls. shipped for their account by other mills.
 † 71,136 bbls. shipped for their account by other mills.
 1 Stock overruns, will advise amount when same is all sold.
 ‡ Includes figures for Cayuga plant.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

678

Govt Ex. No. 33

CORRECTED REPORT

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION

LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS

STATISTICS MONTH OF APRIL, 1919

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 4 Mos. 1918	First 4 Mos. 1919	% Change	April 1918	April 1919	% Change	First 4 Mos. 1918	First 4 Mos. 1919	% Change	April 1918	April 1919	% Change	First 4 Mos. 1918	First 4 Mos. 1919	% Change	April 1918	April 1919	% Change	CLINKER			CEMENT				
																			March 31 1919	April 30 1919	% Change	March 31 1919	April 30 1919	% Change		
Allentown	32	130	+306	24	35	+46	27	130	+381	20	35	+75	97	104	+7	32	44	+38	17	10	17	+70	95	4	86	+2050
Alpha	467	317	-32	252	148	-41	471	246	-48	233	136	-42	657	468	-29	284	228	-20	338	258	350	+36	352	228	260	+14
Alsen																										
Atlas	1519	1615	+6	455	455	+2	1523	1615	+6	457	465	+2	1540	1179	-23	619	452	-27	0	0	0		1205	406	1217	+204
Bath	88	132	+50	41	57	+39	97	122	+26	52	56	+8	110	153	+39	53	69	+30	91	22	92	+316	73	32	60	+88
Cayuga																										
Coplay	307	157	-49	91	53	-31	305	232	-24	89	68	-24	274	182	-34	96	65	-32	19	98	15	-85	115	92	118	+28
Dexter	139	253	+82	44	71	+61	159	231	+45	50	76	+52	174	*201	+16	67	**83	+24	60	19	55	+189	62	13	55	+323
Edison	149	432	+190	129	107	-17	159	437	+175	128	113	-12	297	176	-41	119	77	-35	36	25	30	+20	408	46	444	+365
Giant L. V.	154	190	+23	37	79	+114	154	190	+23	37	79	+114	179	201	+12	49	91	+86	1	6	1		41	27	29	+7
Giant Norfolk																										
Glens Falls	132	184	+39	51	49	-4	102	179	+75	42	52	+24	97	65	-33	48	31	-35	16	80	14	-83	236	209	257	+23
Heidelberg																										
Hercules	30	142	+373	30	33	+10	42	138	+229	23	37	+61	34	109	+30	28	40	+43	36	8	32	+300	44	6	40	+367
Knickerbocker	167	162	-3	57	***		174	167	-4	59	***		148	108	-27	77	32	-58	66	109	66	-39	235	165	203	+23
Lawrence	290	303	+4	101	105	+4	227	232	+2	113	82	-27	275	167	-39	128	83	-35	101	128	127	-1	154	106	153	+44
Lehigh	661	756	+14	213	218	+2	719	832	+16	224	266	+18	845	680	-20	336	263	-22	5	24	24		870	196	814	+315
Nazareth	181	344	+90	68	71	+4	173	311	+80	57	60	+5	200	157	-22	97	54	-44	60	43	73	+70	260	108	266	+146
Penn-Allen	48	168	+250	38	60	+58	48	168	+250	38	60	+58	139	93	-33	56	35	-38	9	0	0		114	21	140	+567
Pennsylvania/	302	401	+33	98	106	+8	282	255	-10	98	113	+15	289	221	-24	124	96	-25	179	67	172	+157	99	144	115	-20
Phoenix	0	0		0	0		4	0		0	0		56	xx		21	x		23	23	23	xxx	26	xxx		
Security	158	178	+13	53	69	+30	156	163	+4	58	69	+19	180	136	-24	60	50	-17	47	27	49	+81	62	50	81	+62
Virginia																										
Vulcanite	260	157	-40	78	76	-3	265	155	-42	81	76	-6	254	158	-38	115	61	-47	4	3	4	+33	56	69	72	+4
TOTAL	5084	6021	+18	1860	1812	-3	5087	5803	+14	1859	1783	-4	5395	4558	-23	2499	1854	-23	1099	944	1144	+21	4481	1942	4409	+127

* Includes 80,364 bbls. shipped for account of another mill.
 ** Includes 32,112 bbls. shipped for account of another mill.
 *** Plant shut down during month of April, 1919.
 / Includes figures for Cayuga plant.
 x 81,618 bbls. shipped for their account by other mills.
 xx 32,436 bbls. shipped for their account by another mill.
 xxx Stock overruns will advise amount when same is all sold.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF MAY, 1919

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 5 Mos. 1918	First 5 Mos. 1919	% Change	May 1918	May 1919	% Change	First 5 Mos. 1918	First 5 Mos. 1919	% Change	May 1918	May 1919	% Change	First 5 Mos. 1918	First 5 Mos. 1919	% Change	May 1918	May 1919	% Change	April 30 1919	CLINKER May 31 1918	May 31 1919	% Change	April 30 1919	CEMENT May 31 1918	May 31 1919	% Change
Allentown	90	179	+99	58	49	-16	89	183	+106	63	53	-16	142	180	+27	44	76	+73	17	5	13	+160	86	22	62	+182
Alpha	797	516	-35	330	200	-39	791	508	-36	320	262	-18	1002	701	-30	346	233	-33	350	269	288	+7	260	203	289	+42
Alcon																										
Atlas	2087	2092	0	568	477	-16	2091	2092	0	568	477	-16	2099	1687	-20	558	509	-9	0	0	0		1217	410	1186	+189
Bath	158	199	+26	70	67	-4	162	215	+33	65	93	+43	168	241	+43	58	88	+52	92	27	66	+144	60	39	65	+67
Cayuga																										
Coplay	390	243	-38	83	86	+4	390	318	-18	84	86	+2	374	272	-27	100	90	-10	15	96	15	-81	118	76	113	+49
Dexter	237	325	+37	99	72	-27	243	308	+27	84	77	-8	260	*308	+18	186	**107	+24	55	34	49	+44	55	11	26	+136
Edison	307	553	+80	147	121	-18	313	562	+80	154	125	-19	456	270	-41	160	93	-42	30	33	26	-21	444	40	476	+1090
Giant L. V.	224	274	+22	70	84	+20	224	274	+22	70	84	+20	244	263	+8	65	61	-6	1	0	1	+	29	32	52	+63
Giant Norfolk																										
Glens Falls	186	235	+26	55	51	-7	153	216	+41	51	37	-27	170	104	-39	74	39	-47	14	81	28	-67	257	186	255	+37
Holderberg																										
Hercules	81	199	+146	51	58	+14	82	186	+127	40	48	+20	119	157	+32	35	49	+40	32	20	42	+110	40	10	40	+300
Knickerbocker	238	232	+3	70	77	+10	247	247	0	73	77	+5	225	150	-33	77	43	-44	66	109	66	-39	203	161	238	+48
Lawrence	407	410	+1	117	107	-9	349	323	-7	121	90	-26	427	258	-40	152	91	-40	127	127	146	+15	153	75	152	+103
Lehigh	1022	982	-4	361	226	-37	1065	1061	-	396	228	-42	1145	959	-16	299	279	-7	24	25	30	+20	813	292	762	+161
Nasareth	261	425	+63	80	81	+1	254	400	+57	81	88	+9	305	221	-28	105	64	-39	73	43	67	+56	266	85	290	+241
Penn-Allen	108	212	+96	59	44	-25	108	212	+96	59	44	-25	205	137	-33	66	45	-32	0	0	0		140	15	139	+827
Pennsylvania [#]	449	555	+24	147	152	+3	434	405	-7	152	149	-2	431	327	-24	142	107	-25	172	60	175	+192	115	153	158	+3
Phoenix	0	0		0	0		4	0	-	0	0		96	xx		40	x		23	23	23	0	xxx	15	xxx	
Security	206	250	+21	48	72	+50	220	231	+5	65	68	+5	251	202	-20	71	65	-8	49	13	50	+285	81	44	83	+89
Virginia																										
Vulcanite	356	242	-32	96	86	-10	361	242	-33	102	87	-15	378	231	-39	125	74	-41	4	4	4	0	72	46	85	+85
TOTAL . .	7604	8123	+7	2509	2110	-16	7580	7983	+5	2548	2173	-15	8497	6668	-22	2603	2113	-19	1144	972	1089	+12	4409	1915	4471	+133

* Includes 115,399½ bbls. shipped for account of other mills.
 ** Includes 34,835 bbls. shipped for account of other mills.
 # Includes figures for Cayuga plant.
 x 115,099½ bbls. shipped for their account by other mills.
 x 34,705 bbls. shipped for their account by another mill.
 xxx Stock overruns will advance amount when same is all sold.
 † 29,000 shipped for other mills.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

680

Govt Ex. No. 35

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF JUNE, 1919

MANUFACTURERS	TOTAL PRODUCTION CEMENTS						CEMENT GRIND						SHIPMENTS						STOCK ON HAND							
	First 6 Mos. 1918	First 6 Mos. 1919	% Change	June 1918	June 1919	% Change	First 6 Mos. 1918	First 6 Mos. 1919	% Change	June 1918	June 1919	% Change	First 6 Mos. 1918	First 6 Mos. 1919	% Change	June 1918	June 1919	% Change	May 31 1919	CEMENT			CEMENT			
																				June 30 1918	June 30 1919	% Change	May 31 1919	June 30 1918	June 30 1919	% Change
Albiontown	152	248	+63	62	69	+11	150	254	+69	60	72	+20	188	263	+40	46	83	+80	13	5	10	+100	62	36	51	+42
Alpha	1137	814	-28	340	298	-12	1136	814	-28	345	307	-11	1334	987	-26	332	287	-14	288	264	280	+6	289	215	309	+44
Alsen																										
Atlas	2663	2555	-4	576	463	-20	2667	2555	-4	576	463	-20	2635	2269	-14	537	582	+8	0	0	0	0	1186	449	1066	+137
Bath	219	278	+27	61	79	+30	215	313	+46	52	98	+88	225	335	+48	58	95	+64	66	36	47	+31	65	33	69	+109
Cayuga																										
Coplay	479	334	-30	89	91	+2	485	409	-16	97	91	-6	492	387	-21	118	115	-3	15	88	15	-83	113	55	89	+62
Dexter	306	396	+29	69	71	+3	325	396	+22	81	88	+9	354	452	+29	103	103	0	49	21	32	+52	26	10	11	+10
Edison	449	706	+57	143	153	+7	459	711	+55	146	149	+2	607	405	-33	151	135	-11	26	33	30	-9	476	35	490	+1300
Giant L. V.	302	355	+18	78	81	+4	302	355	+18	78	81	+4	315	338	+7	71	75	+6	1	0	1	+	52	39	58	+49
Giant Norfolk																										
Glens Falls	232	281	+21	46	46	0	211	265	+26	58	49	-16	254	154	-39	81	50	-40	28	71	25	-65	255	161	253	+57
Heldberg																										
Hercules	138	248	+80	62	49	-21	136	242	+78	54	56	+4	163	222	+36	44	64	+45	42	28	34	+21	40	20	32	+60
Knickerbocker	319	325	+2	81	87	+7	332	331	0	84	87	+4	338	214	-37	112	64	-43	66	109	66	-39	258	133	261	+96
Lawrence	525	511	-3	118	101	-14	495	419	-15	146	97	-34	554	371	-33	127	113	-11	146	104	154	+48	152	94	136	+45
Lehigh	1418	1225	-14	396	243	-39	1452	1305	-10	387	245	-37	1518	1324	-13	374	365	-2	30	48	37	-23	702	306	641	+109
Nazareth	339	505	+49	77	80	+4	331	479	+45	77	79	+3	394	291	-26	89	70	-21	67	45	69	+53	290	73	299	+310
Penn-Allen	163	266	+63	55	54	-2	163	266	+63	55	54	-2	265	187	-29	60	50	-17	0	0	0	0	139	10	142	+1330
Pennsylvania	607	698	+15	158	143	-9	592	551	-7	158	146	-8	573	455	-21	142	128	-10	175	60	172	+167	158	168	176	+5
Phoenix	0	0	0	0	0	0	4	4	0	0	0	0	68	XX		X	±		22	23	23	0	XXX	14	XXX	
Security	267	293	+10	61	61	0	280	295	+5	60	65	+8	304	268	-13	53	62	+17	50	16	48	+206	83	50	86	+72
Virginia																										
Vulcanite	469	337	-28	113	95	-16	477	339	-29	116	97	-16	488	326	-33	109	94	-14	4	3	4	+33	85	53	88	+66
TOTAL	10184	10377	+2	2585	2264	-12	10213	10303	+1	2630	2324	-12	11900	9249	-16	2535	2535	0	1089	954	1047	+10	4471	1954	4258	+118

* Includes 140,000 bbls. shipped for account of other mills.
 ** Includes 12,521 bbls. shipped for account of another mill.
 *** Includes 10,500 bbls. shipped for account of another mill.
 § In addition 55,433 bbls. shipped for their account by another mill.
 - A 27,215 bbls. were shipped for their account by another mill.
 - A 156,120 bbls. were shipped for their account by another mill.
 - A 141,571 bbls. were shipped for their account by another mill.

ALL AMOUNTS ARE SHOWN IN THOUSANDE.

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF JULY, 1919

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 7 Mos. 1918	First 7 Mos. 1919	% Change	July 1918	July 1919	% Change	First 7 Mos. 1918	First 7 Mos. 1919	% Change	July 1918	July 1919	% Change	First 7 Mos. 1918	First 7 Mos. 1919	% Change	July 1918	July 1919	% Change	June 30 1919	CLINKER			CEMENT			
																				July 31 1918	July 31 1919	% Change	June 30 1919	July 31 1918	July 31 1919	% Change
Allentown	211	320	+52	59	72	+22	205	327	+60	56	73	+30	229	345	+51	41	82	+100	10	11	9	-18	51	50	12	-16
Alpha	1443	1122	-22	306	308	+	1465	1118	-24	329	304	-8	1627	1243	-24	293	256	-13	280	240	283	+18	309	252	357	+42
Alsen																										
Atlas	3274	3101	-5	611	546	-11	3281	3101	-5	613	546	-11	3168	2897	-6	533	628	+18	0	0	0		1066	528	985	+87
Bath	287	359	+25	68	81	+19	268	410	+53	53	97	+83	276	432	+57	50	96	+92	47	50	30	-40	69	37	69	+86
Cayuga	(Combined with Pennsylvania figures)																									
Coplay	587	453	-23	108	119	+10	599	529	-12	113	120	+6	606	491	-19	114	104	-9	15	83	14	-83	89	54	104	+93
Dexter	378	475	+26	72	79	+10	398	480	+21	73	84	+15	*424	**487	+21	***83	*76	-8	32	19	28	+47	11	18	20	+11
Edison	592	842	+42	142	136	-4	598	870	+45	139	131	-6	737	564	-23	129	159	+23	30	40	35	-13	490	45	462	+927
Giant L. V.	381	440	+15	79	85	+8	381	440	+15	79	85	+8	396	410	+4	81	72	-11	1	0	0		58	37	71	+92
Giant Norfolk																										
Glens Falls	278	323	+16	46	42	-9	264	315	+19	52	50	-4	329	215	-35	75	61	-19	25	65	17	-74	253	138	242	+75
Helderberg																										
Hercules	180	299	+66	42	51	+21	192	300	+56	56	58	+4	221	288	+30	57	66	+16	34	14	27	+93	32	19	24	+26
Knickerbocker	408	413	+1	89	88	-1	425	422	-1	93	91	-2	432	287	-34	94	73	-22	66	109	66	-39	261	132	279	+111
Lawrence	638	599	-6	113	88	-22	642	566	-12	148	147	-	670	508	-24	116	138	+19	154	72	98	+36	136	125	145	+16
Lehigh	1791	1535	-14	373	310	-17	1853	1630	-12	400	325	-19	1847	1725	-7	329	400	+22	37	38	33	-13	641	378	566	+50
Mazareth	430	573	+33	91	69	-24	422	555	+32	91	76	-16	486	357	-27	92	66	-28	69	47	63	+34	299	71	309	+335
Nnn-Allen	217	322	+48	54	56	+4	217	322	+48	54	56	+4	312	250	-20	47	63	+34	0	0	0		143	17	136	+700
Pennsylvania	753	826	+10	145	128	-12	739	710	-4	146	159	+9	728	629	-14	155	1174	+12	172	59	141	+139	176	160	161	+
Phoenix	0	0		0	0		4	0		0	0		*76	x		*8	xx		23	23	0	-	xxx	7	xxx	
Security	322	353	+10	55	58	+5	336	362	+8	56	68	+21	365	329	-10	61	66	+8	48	17	40	+135	86	45	88	+96
Virginia																										
Woonite	578	427	-26	108	90	-17	585	430	-26	108	91	-16	563	424	-25	76	98	+29	4	4	2	-50	88	86	80	-7
TOTAL	12748	12782	+	2561	2406	-6	12874	12887	+	2659	2561	-4	13492	11881	-12	2426	2678	+10	1047	891	886	-	4258	2199	4140	+88

* Includes 76,496 barrels shipped for account of another mill.
 ** Includes 140,232 barrels shipped for account of another mill.
 *** Includes 21,349 barrels shipped for account of another mill.
 † In addition 5,693 barrels were shipped for their account by other mills.
 ‡ Includes 63,692 barrels shipped for other mills.
 § In addition 76,484 barrels were shipped for their account by another mill.
 ¶ In addition 107,510 barrels were shipped for their account by other mills.
 # In addition 21,349 barrels were shipped for their account by another mill.
 x 40,890 barrels were shipped for their account by other mills.
 xx Stock returned, will advise amount when same is all sold.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

682

Govt Ex. No. 37

1st EDITION

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
 LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
 STATISTICS MONTH OF AUGUST, 1919

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 8 Mos 1918	First 8 Mos 1919	% Change	August 1918	August 1919	% Change	First 8 Mos 1918	First 8 Mos 1919	% Change	August 1918	August 1919	% Change	First 8 Mos 1918	First 8 Mos 1919	% Change	August 1918	August 1919	% Change	July 31 1919	CLINKER			CEMENT			
																				Aug. 31 1918	Aug. 31 1919	% Change	July 31 1919	Aug. 31 1918	Aug. 31 1919	% Change
Allentown	268	339	+45	55	69	+25	258	398	+54	49	71	+45	278	423	+52	49	78	+59	9	12	?	-42	42	56	35	-38
Alpha	1754	1465	-16	311	343	+10	1797	1451	-19	332	333	0	1922	1573	-18	295	330	+12	283	220	293	+33	357	289	360	+25
Alaen																										
Atlas	3879	3773	-3	604	672	+11	3886	3773	-3	605	672	+11	3695	3658	-1	527	761	+44	0	0	0		985	605	896	+48
Bath	354	443	+25	67	84	+25	328	500	+52	60	90	+50	328	510	+52	51	78	+53	30	57	25	-56	69	45	81	+80
Cayuga	(Combined with Pennsylvania figures)																									
Coplay	701	546	-22	114	94	-18	708	632	-11	109	104	-5	693	613	-12	87	121	+39	14	88	4	-95	104	76	86	+13
Dexter	460	555	+21	83	80	-4	479	573	+20	82	92	+12	*483	**585	+21	***76	†83	+9	28	21	15	-29	20	23	29	+26
Edison	724	990	+37	132	148	+12	730	994	+36	131	152	+16	866	771	-11	129	207	+60	35	45	31	-31	462	47	406	+764
Giant L. V.	452	524	+16	71	84	+18	452	524	+16	71	84	+18	473	502	+6	76	92	+21	0	0	1	+	71	31	62	+100
Giant Norfolk																										
Globe Falls	327	371	+13	49	48	-2	323	367	+14	59	52	-12	403	273	-32	74	58	-22	17	55	13	-76	242	123	236	+92
Helderberg																										
Hercules	233	360	+51	58	60	+3	242	360	+49	50	60	+20	262	352	+34	41	†64	+56	27	22	28	+27	24	28	20	-28
Knickerbocker	494	476	-4	86	63	-27	515	486	-6	90	64	-29	538	400	-26	106	113	+7	66	109	66	-39	279	116	231	+99
Lawrence	749	700	-7	111	101	-9	757	577	-12	125	111	-11	775	632	-18	104	124	+19	98	61	92	+51	145	146	132	-10
Lehigh	2176	1876	-14	385	341	-11	2249	1975	-12	410	345	-16	2166	2165	0	320	440	+37	33	28	42	+50	566	468	471	+1
Nazareth	517	647	+27	81	74	-9	510	635	+25	88	80	-9	575	446	-22	89	89	0	63	42	59	+40	309	70	300	+329
Penn-Ailen	278	336	+39	60	64	+7	276	326	+39	60	64	+7	355	318	-10	43	67	+56	0	0	0		126	35	133	+280
Pennsylvania	358	968	+13	105	142	+35	834	892	+7	95	182	+92	881	826	-6	153	†197	+29	141	69	191	+46	161	102	146	+43
Phoenix	0	0		0	0		4	0		0	0		x76	xx		†	‡		0	23	23		xxx	6	xxx	
Security	386	428	+11	64	65	+2	390	441	+13	54	78	+44	420	414	-1	54	85	+57	40	29	30	+3	89	44	82	+86
Virginia																										
Vulcanito	701	521	-20	124	94	-24	711	521	-27	126	91	-28	650	543	-16	87	119	+37	2	2	3	+50	80	124	52	-38
TOTAL	15310	15418	+1	2560	2626	+3	15461	15585	+1	2596	2725	+5	15839	15004	-5	2361	3106	+32	886	883	833	-6	1140	2434	3758	+56

* Includes 195,494 barrels shipped for account of another mill.

** Includes 175,646 barrels shipped for account of another mill.

*** Includes 28,997 barrels shipped for account of another mill.

† In addition 5,915 barrels were shipped for their account by other mills.

‡ In addition 4,124 barrels were shipped for their account by other mills.

§ Includes 52,477 barrels shipped for account of other mills.

x In addition 105,977 barrels were shipped for their account by another mill.

xx In addition 243,366 barrels were shipped for their account by other mills.

§ In addition 79,293 barrels were shipped for their account by another mill.

§ In addition 45,856 barrels were shipped for their account by other mills.

xxx Stock overruns, will advise amount when same is all sold.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF SEPTEMBER, 1919

MANUFACTURERS	TOTAL PRODUCTION CEMENT						CEMENT GRIND						SHIPMENTS						STOCK ON HAND							
	First 6 Mos. 1918	First 6 Mos. 1919	% Change	Sept. 1918	Sept. 1919	% Change	First 6 Mos. 1918	First 6 Mos. 1919	% Change	Sept. 1918	Sept. 1919	% Change	First 6 Mos. 1918	First 6 Mos. 1919	% Change	Sept. 1918	Sept. 1919	% Change	Aug. 31, 1919	Sept. 30, 1918	Sept. 30, 1919	% Change	Aug. 31, 1919	Sept. 30, 1918	Sept. 30, 1919	% Change
Allentown	312	461	+48	44	72	+64	302	471	+56	44	73	+66	318	498	+57	46	75	+67	?	12	6	-50	35	60	33	-45
Alpha	2059	1786	-13	305	321	+6	2112	1821	-11	511	376	+18	2231	1909	-11	311	416	+31	293	210	217	+18	360	292	314	+8
Alsen																										
Atlas	1100	4452	+1	521	679	+30	1407	4452	+1	521	679	+30	1217	1610	+9	552	963	+79	0	0	0		896	571	592	+3
Beth	417	526	+26	63	82	+30	379	580	+53	51	80	+57	362	626	+73	34	119	+250	25	70	27	-61	81	62	43	-31
Cayuga	(Combined with Pennsylvania Spencer)																									
Coplay	804	637	-21	103	91	-12	801	723	-9	92	100	+9	771	732	-5	81	119	+47	4	99	4	-96	86	87	67	-23
Dexter	529	628	+19	69	73	+6	557	651	+17	78	78	0	566	675	+19	73	119	+63	15	11	10	-9	29	28	17	-39
Edison	845	1190	+41	121	169	+40	857	1158	+35	127	174	+37	984	1213	+3	116	1241	+104	31	42	27	-36	406	56	329	+505
Giant L. V.	524	611	+17	72	87	+21	524	611	+17	72	87	+21	515	611	+16	72	1150	+67	1	0	1	+	62	31	29	-6
Giant Norfolk																										
Glass Falls	367	419	+14	39	40	+23	372	412	+11	49	45	-8	472	319	-26	60	76	+12	12	45	16	-64	236	103	205	+90
Holdeberg																										
Hercules	290	415	+42	32	53	+2	284	422	+49	42	62	+48	312	411	+32	50	61	+22	28	37	19	-41	20	20	20	0
Ketchikan	575	538	-7	81	62	-26	603	550	-9	69	61	-12	651	561	-12	112	111	-1	66	116	66	-25	231	92	131	+46
Lawrence	831	853	+3	102	103	+20	821	896	+9	84	129	+54	823	792	-10	100	166	+66	97	49	70	+17	152	121	45	-21
Lehigh	2384	2125	-11	108	119	+10	2645	2359	-10	396	404	+2	2597	2261	-13	353	408	+15	12	51	26	-41	491	556	479	-13
Nepanath	547	715	+29	77	69	-12	548	716	+29	97	81	-18	610	543	-11	75	96	+29	79	40	47	+17	390	11	363	+379
Penn. L. V.	345	496	+43	47	62	+32	325	438	+35	47	62	+32	345	457	+33	40	113	+178	0	0	0		133	42	62	+119
Pennsylvania	962	1112	+17	91	114	+25	97	986	+7	101	140	+39	1006	1026	+2	125	1129	+60	101	30	190	+67	146	34	63	+1
Phoenix	0	31	+	0	31	+	4	26	+400	0	24	+	579	810	+40	14	140	+126	24	23	31	+33	?	16	470	
Security	141	193	+37	56	61	+9	145	210	+45	54	77	+43	471	502	+7	32	88	+56	30	14	20	+41	82	45	11	+59
Virginia																										
Volcanite	277	638	+130	76	117	+54	250	642	+156	79	124	+57	750	607	-18	99	149	+50	1	3	3	0	52	114	12	-92
TOTAL	17624	18068	+3	2213	2579	+17	17736	18383	+4	2314	2651	+15	12139	12767	+5	1368	2150	+56	993	1099	778	+66	4740	140	1241	+16

1. In addition 11,000 tons were shipped from other mills.
 2. In addition 10,000 tons were shipped from other mills.
 3. In addition 10,000 tons were shipped from other mills.
 4. In addition 10,000 tons were shipped from other mills.
 5. In addition 10,000 tons were shipped from other mills.
 6. In addition 10,000 tons were shipped from other mills.

7. In addition 10,000 tons were shipped from other mills.
 8. In addition 10,000 tons were shipped from other mills.
 9. In addition 10,000 tons were shipped from other mills.
 10. In addition 10,000 tons were shipped from other mills.
 11. In addition 10,000 tons were shipped from other mills.
 12. In addition 10,000 tons were shipped from other mills.

13. In addition 10,000 tons were shipped from other mills.
 14. In addition 10,000 tons were shipped from other mills.
 15. In addition 10,000 tons were shipped from other mills.
 16. In addition 10,000 tons were shipped from other mills.
 17. In addition 10,000 tons were shipped from other mills.
 18. In addition 10,000 tons were shipped from other mills.

ALL FIGURES ARE SHOWN IN THOUSANDS.

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF OCTOBER, 1919

MANUFACTURERS	TOTAL PRODUCTION CEMENT						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 19 Mos. 1918	First 19 Mos. 1919	% Change	Oct. 1918	Oct. 1919	% Change	First 19 Mos. 1918	First 19 Mos. 1919	% Change	Oct. 1918	Oct. 1919	% Change	First 19 Mos. 1918	First 19 Mos. 1919	% Change	Oct. 1918	Oct. 1919	% Change	Sept. 30 1919	Oct. 31 1918	Oct. 31 1919	% Change	Sept. 30 1919	Oct. 31 1918	Oct. 31 1919	% Change
Allentown	358	527	+47	46	66	+43	348	537	+54	47	66	+40	365	(a) 566	+55	47	(b) 69	+47	6	12	6	-50	33	60	31	-48
Alpha	2315	2141	-8	256	353	+38	2323	2168	-7	211	347	+64	2434	2344	-4	201	355	+77	247	254	252	-1	314	303	306	+1
Alcon																										
Atlas	4834	5161	+7	435	709	+63	4841	5162	+7	435	710	+63	4676	5543	+19	423	902	+113	0	0	0		592	586	399	-32
Bath	459	616	+34	41	90	+119	406	680	+67	27	100	+270	407	726	+78	45	98	+118	27	84	17	-80	43	44	45	+2
Cayuga	(Combined with Pennsylvania figures)																									
Coplay	866	734	-15	62	97	+56	878	836	-5	77	103	+34	865	839	-3	90	108	+20	4	83	8	-90	67	74	61	-18
Dexter	605	717	+19	76	59	+17	627	734	+17	79	83	+19	(c) 641	(d) 766	+20	(e) 75	(f) 91	+21	10	18	16	-11	17	23	9	-61
Edison	895	1305	+46	50	145	+190	912	1320	+45	56	152	+171	1047	(a) 1262	+21	62	(b) 249	+302	27	38	20	-47	339	49	242	+394
Giant L. V.	605	712	+18	81	101	+25	604	712	+18	80	101	+26	616	(b) 721	+17	73	106	+45	1	1	1		29	38	23	-39
Giant Norfolk																										
Glens Falls	399	468	+17	32	49	+53	406	463	+14	34	51	+50	524	442	-16	53	92	+74	16	44	14	-68	205	84	163	+94
Heldberg																										
Hercules	326	471	+44	35	58	+66	325	489	+50	40	67	+68	357	(b) 479	+34	45	(a) 66	+47	19	27	10	-63	20	15	21	+40
Knickerbocker	654	622	-5	76	84	+11	683	637	-7	79	87	+10	731	(c) 682	-7	81	(a) 122	+51	66	88	66	-25	134	91	99	+9
Lawrence	889	926	+4	58	123	+112	916	974	+6	65	168	+158	991	1001	+1	108	202	+87	70	56	31	-45	95	78	60	-23
Lehigh	2844	2579	-9	260	354	+36	2921	2757	-6	274	378	+38	2717	(a) 3077	+13	250	(b) 416	+66	30	47	30	-36	379	590	341	-42
Nazareth	657	783	+17	80	68	-15	674	808	+20	76	92	+21	727	(b) 656	-10	75	(b) 112	+49	48	38	25	-34	283	82	263	+221
Penn-Allen	372	510	+37	47	62	+32	372	510	+37	47	62	+32	439	(c) 531	+21	44	(a) 110	+150	0	0	0		92	45	43	-4
Pennsylvania	1047	1258	+20	95	146	+54	1056	1187	+12	115	155	+35	1117	(a) 1214	+9	112	(a) 185	+65	105	36	96	+167	83	88	52	-41
Phoenix	0	86	+	0	55	+	4	81	+1925	0	57	+	(c) 83	(a) 57	-31	(a) 4	(c) 48	+1100	31	23	29	+26	16	0	25	+
Security	495	570	+15	53	76	+43	490	603	+23	46	85	+85	520	612	+18	48	110	+129	20	42	13	-69	71	43	46	+7
Virginia																										
Vulcanite	810	777	-4	33	139	+321	825	785	-5	35	140	+300	805	817	+1	65	130	+100	3	3	3		32	84	42	-50
TOTAL . .	19440	20963	+8	1816	2864	+58	19611	21443	+9	1814	3004	+66	20058	22335	+11	1901	3571	+88	730	894	637	-29	7844	2377	2271	-4

(a) In addition 6,024 bbls. were shipped from other mills.
(b) In addition 54,331 bbls. were shipped from other mills.
(c) Includes 126,093 bbls. shipped for other mills.
(d) Includes 110,577 bbls. shipped for other mills.
(e) Includes 14,052 bbls. shipped for other mills.
(f) In addition 6,941 bbls. shipped for other mills.
(g) Includes 19,530 bbls. shipped for other mills.

(h) Includes 4,549 bbls. shipped for other mills.
(i) Includes 18,771 bbls. shipped for other mills.
(j) In addition 18,726 bbls. shipped for other mills.
(k) In addition 1,974 bbls. shipped for other mills.
(l) Includes 91,512 bbls. shipped for other mills.
(m) Includes 40,098 bbls. shipped for other mills.
(n) In addition 49,912 bbls. shipped for other mills.

(o) In addition 45,244 bbls. shipped from other mills.
(p) Includes 23,203 bbls. shipped for other mills. 3,844 of this was shipped in September for other mills not reported.
(q) Includes 19,139 bbls. shipped for other mills.
(r) Includes 36,613 bbls. shipped for other mills.
(s) Includes 32,066 bbls. shipped for other mills.
(t) Includes 126,665 bbls. shipped for other mills.

(u) Includes 19,976 bbls. shipped for other mills.
(v) In addition 162,661 bbls. shipped for other mills.
(w) In addition 300,881 bbls. shipped for other mills.
(x) In addition 26,790 bbls. shipped for other mills.
(y) In addition 12,040 bbls. shipped for other mills.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF NOVEMBER, 1919

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 11 Mos. 1918	First 11 Mos. 1919	% Change	Nov. 1918	Nov. 1919	% Change	First 11 Mos. 1918	First 11 Mos. 1919	% Change	Nov. 1918	Nov. 1919	% Change	First 11 Mos. 1918	First 11 Mos. 1919	% Change	Nov. 1918	Nov. 1919	% Change	Oct. 31 1919	CEMENT			CEMENT			
																				Nov. 30 1918	% Change	Oct. 31 1919	Nov. 30 1918	% Change	Nov. 30 1919	
Allentown	396	380	+46	38	53	+39	382	551	+55	34	54	+59	402	(a) 628	+56	37	(b) 62	+68	6	16	5	-69	31	57	22	-61
Alpha	2590	2443	-6	276	302	+9	2582	2470	-4	259	301	+16	2578	2590	0	143	246	+72	252	271	253	-7	306	418	362	-13
Alsen																										
Atlas	5248	5325	+11	414	664	+60	5255	5826	+11	414	664	+60	5070	6184	+22	400	641	+60	0	0	0		336	536	359	-33
Beth	504	696	+33	45	80	+78	442	775	+75	35	95	+171	(c) 435	810	+86	(d) 28	84	+200	17	94	2	-98	45	51	56	+10
Cayuga	(Combined with Pennsylvania figures)																									
Coplay	920	328	-10	54	94	+74	924	927	0	47	92	+96	935	944	+1	76	104	+40	8	91	19	-79	61	50	49	-2
Dexter	674	776	+15	69	59	-14	692	796	+15	65	62	-5	(e) 706	(f) 831	+18	(g) 65	(h) 65	0	16	22	13	-41	9	23	6	-74
Edison	995	1353	+36	100	50	-60	1018	1365	+34	105	45	-57	1129	(i) 1414	+25	92	153	+67	20	35	25	-31	242	73	134	+84
Giant L. V.	662	807	+22	58	95	+64	661	807	+22	57	95	+67	660	(j) 808	+22	42	86	+110	1	1	1	0	23	54	30	-44
Giant Norfolk																										
Glens Falls	442	514	+16	43	46	+7	455	508	+12	59	46	-8	559	474	-15	34	33	-3	14	37	14	-62	163	100	176	+76
Halderberg																										
Hercules	364	524	+44	38	53	+39	373	547	+47	48	58	+21	(k) 390	(l) 541	+39	(m) 41	62	+55	10	17	5	-71	21	23	17	-26
Knickerbocker	720	706	-2	66	83	+26	751	723	-4	69	66	+25	799	(n) 752	-5	68	(o) 70	+2	66	88	66	-25	99	91	115	+26
Lawrence	965	1056	+9	75	139	+73	998	1127	+13	82	154	+88	1084	1141	+5	93	140	51	31	52	11	-79	60	67	74	+10
Lehigh	3660	2929	-4	215	350	+63	3144	3145	0	229	388	+69	2912	(p) 3445	+18	155	(q) 368	+89	30	43	21	-51	341	624	360	-42
Nazareth	742	846	+14	74	63	-15	754	873	+16	59	65	-19	793	(r) 727	-8	66	71	+8	25	34	24	-29	263	96	257	+166
Penn-Allen	414	568	+37	42	58	+38	414	568	+37	42	58	+38	472	(s) 605	+28	33	(t) 74	+124	0	0	0		42	54	27	-50
Pennsylvania	1162	1376	+18	114	118	+4	1156	1317	+14	99	130	+31	1233	(u) 1339	+9	116	125	+8	96	51	84	+65	52	71	57	-20
Phoenix	0	121	+	0	35	+	4	122	+2950	0	42	+	(v) 84	(w) 104	+24	(x) 1	(y) 47	+	29	25	22	-4	25	16	26	+25
Security	545	637	+17	49	67	+37	554	672	+21	64	69	+8	573	678	+18	52	65	+25	13	29	14	-52	46	55	49	-11
Virginia																										
Vulcanite	858	901	+5	48	124	+158	876	909	+4	51	124	+143	850	924	+9	33	106	+221	3	2	3	+50	42	90	59	-34
TOTAL	21261	23486	+10	1818	2524	+39	21440	24068	+12	1830	2628	+41	21564	24935	+15	1598	2604	+63	637	907	582	-36	2208	2549	2229	-13

(a) In addition 83,990 bbls. were shipped from other mills.
(b) In addition 17,375 bbls. were shipped from other mills.
(c) Includes 10,000 bbls. shipped for another mill.
(d) Includes 2,000 bbls. shipped for another mill.
(e) Includes 151,770 bbls. shipped for another mill.
(f) Includes 108,614 bbls. shipped for other mills.
(g) Includes 25,656 bbls. shipped for other mills.
(h) In addition 1,506 bbls. were shipped by other mills.
(i) Includes 19,520 bbls. shipped for other mills.

(j) Includes 18,771 bbls. shipped for other mills.
(k) In addition 10,000 bbls. were shipped from another mill.
(l) In addition 14,276 bbls. were shipped from other mills.
(m) In addition 2,000 bbls. were shipped from another mill.
(n) Includes 99,967 bbls. shipped for another mill.
(o) Includes 8,400 bbls. shipped for another mill.
(p) In addition 10,372 bbls. were shipped from other mills.
(q) In addition 8,400 bbls. were shipped from another mill.
(r) Includes 25,203 bbls. shipped for other mills.

(s) Includes 52,572 bbls. shipped for other mills.
(t) Includes 16,559 bbls. shipped for other mills.
(u) Includes 126,600 bbls. shipped for other mills.
(v) In addition 188,348 bbls. were shipped by other mills.
(w) In addition 306,002 bbls. were shipped by other mills.
(x) In addition 25,685 bbls. were shipped by other mills.
(y) In addition 5,141 bbls. were shipped by other mills.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF DECEMBER, 1919

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 12 Mos. 1918	First 12 Mos. 1919	% Change	Dec. 1918	Dec. 1919	% Change	First 12 Mos. 1918	First 12 Mos. 1919	% Change	Dec. 1918	Dec. 1919	% Change	First 12 Mos. 1918	First 12 Mos. 1919	% Change	Dec. 1918	Dec. 1919	% Change	Nov. 30 1919	Dec. 31 1918	% Change	Nov. 30 1919	Dec. 31 1918	% Change		
Allentown	428	595	+ 41	28	15	-46	409	607	+ 48	27	16	-41	426	(1) 651	+ 58	24	(1) 22	-8	5	17	4	-76	22	60	(1) 8	-87
Alpha	2735	2578	- 6	165	134	-19	2738	2603	- 3	156	108	+ 24	2670	2786	+ 4	92	196	+ 118	238	280	194	- 81	562	482	258	-26
Alsen																										
Atlas	5650	6266	+ 11	402	441	+ 10	5657	6267	+ 11	402	441	+ 10	5291	6716	+ 27	221	592	+ 141	0	0	0		359	717	267	-68
Bath	546	745	+ 36	48	69	+ 14	496	806	+ 63	54	81	-48	(1) 450	862	+ 92	15	52	+ 247	2	82	20	-76	56	91	35	-62
Cayuga	(Combined with Pennsylvania figures)																									
Coplay	998	895	-10	74	47	-36	999	990	-1	75	62	-17	992	1087	+ 5	57	94	+ 63	19	90	5	-94	49	68	17	-73
Dexter	741	818	+ 10	66	61	-38	747	888	+ 12	56	41	-27	(1) 758	(1) 878	+ 15	(1) 52	(1) 48	-17	18	88	18	-61	6	26	5	-61
Edison	1131	1898	+ 24	186	45	-67	1159	1409	+ 22	141	44	-69	1180	(1) 1507	+ 29	82	92	+ 188	25	85	28	-20	184	182	85	-58
Giant L. V.	706	872	+ 24	44	65	+ 48	705	872	+ 24	44	65	+ 48	701	(1) 878	+ 25	41	70	+ 71	1	1	1	0	80	56	26	-54
Giant Norfolk																										
Glens Falls	486	557	+ 15	44	48	- 2	510	544	+ 7	55	56	-35	580	607	-14	22	22	0	14	9	22	+ 144	170	148	190	+ 28
Helderberg																										
Hercules	404	578	+ 48	40	58	+ 38	402	598	+ 49	29	51	+ 76	(1) 441	(1) 588	+ 32	41	42	+ 2	5	28	7	-75	17	11	26	+ 136
Knickerbocker	708	771	- 8	81	86	-10	853	791	- 5	88	68	-18	850	(1) 797	- 4	81	(1) 44	+ 42	66	88	60	-25	115	144	189	- 4
Lawrence	1055	1175	+ 11	90	110	+ 22	1090	1249	+ 15	92	122	+ 33	1155	1248	+ 8	71	102	+ 44	11	48	18	-73	74	86	94	+ 7
Lehigh	8244	8275	+ 1	184	846	+ 36	8870	8409	+ 4	220	854	+ 61	8098	(1) 8748	+ 21	184	808	+ 65	21	16	25	+ 56	390	661	412	-38
Nazareth	792	887	+ 12	50	61	-18	806	928	+ 15	52	49	- 6	880	(1) 812	- 2	86	(1) 85	+ 186	24	84	17	-50	257	111	222	+ 100
Penn-Allen	448	594	+ 38	85	25	-24	448	594	+ 38	85	25	-24	496	(1) 649	+ 31	24	(1) 44	+ 83	0	0	0		27	64	9	-86
Pennsylvania	1240	1484	+ 20	78	107	+ 37	1259	1445	+ 15	108	127	+ 23	1328	(1) 1448	+ 9	98	109	+ 17	84	28	64	+ 147	57	81	75	- 7
Phoenix	0	123	+	0	2	+	4	128	+ 8100	0	8	+	(1) 84	(1) 118	+ 40	(1)	(1) 14	+	22	28	18	-22	20	(1)	11	+
Security	580	647	+ 12	86	12	-67	591	697	+ 18	37	24	-35	600	708	+ 18	27	80	+ 11	14	28	2	-95	49	54	44	-19
Virginia																										
Vulcanite	885	966	+ 9	27	65	+ 141	903	975	+ 8	26	86	+ 154	894	1005	+ 12	44	82	+ 86	8	2	4	+ 100	30	78	44	-40
TOTAL	22877	25224	+ 10	1621	1716	+ 6	23128	25895	+ 12	1685	1821	+ 8	22780	26918	+ 18	1107	1978	+ 79	582	840	508	-40	2229	3112	2066	-34

(a) In addition 116,492 bbls. were shipped from other mills.
 (b) In addition 33,061 bbls. were shipped from other mills.
 (c) This is the net amount after deducting 8,213 bbls. which cement was uncovered as hardened when bins were cleaned out.
 (d) Of this amount 10,000 bbls. were shipped for another mill.
 (e) Of this amount 17,302 bbls. were shipped for other mills.
 (f) Of this amount 101,265 bbls. were shipped for other mills.
 (g) Of this amount 19,523 bbls. were shipped for other mills.
 (h) In addition 7,333 bbls. were shipped from other mills.

(i) Of this amount 19,830 bbls. were shipped for other mills.
 (j) Of this amount 18,771 bbls. were shipped for other mills.
 (k) In addition 10,000 bbls. were shipped from another mill.
 (l) In addition 18,726 bbls. were shipped from other mills.
 (m) Of this amount 100,165 bbls. were shipped for another mill.
 (n) Of this amount 172 bbls. were shipped for another mill.
 (o) In addition 98,392 bbls. were shipped from other mills.
 (p) Of this amount 62,155 bbls. were shipped for other mills.
 (q) Of this amount 36,952 bbls. were shipped for other mills.

(r) Of this amount 53,775 bbls. were shipped for other mills.
 (s) Of this amount 1,212 bbls. were shipped for another mill.
 (t) Of this amount 12,566 bbls. were shipped for other mills.
 (u) In addition 207,869 bbls. were shipped from other mills.
 (v) In addition 314,800 bbls. were shipped from other mills.
 (w) In addition 19,522 bbls. were shipped from other mills.
 (x) In addition 8,078 bbls. were shipped from other mills.
 (y) Stock overruns.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

SECOND AND FINAL EDITION

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
 LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
 STATISTICS MONTH OF JANUARY, 1920

MANUFACTURERS	TOTAL PRODUCTION CLINKER			CEMENT GROUND			SHIPMENTS				STOCK ON HAND						
	Jan. 1919	Jan. 1920	% Change	Jan. 1919	Jan. 1920	% Change	Jan. 1919	Jan. 1920	% Change	Dec. 31 1919	CLINKER		CEMENT				
											Jan. 31 1919	Jan. 31 1920	% Change	Dec. 31 1919	Jan. 31 1919	Jan. 31 1920	Change %
Allentown	24	28	—4	24	28	—4	13	x6	—54	4	17	4	—76	8	71	25	—65
Alpha	84	244	+ 214	83	188	+ 470	46	143	+ 198	194	331	270	—18	358	466	408	—14
Aisen																	
Atlas	325	634	+ 95	325	634	+ 95	221	406	+ 84	0	0	0		267	821	495	—40
Bath	0	70	+	0	53	+	15	20	—35	20	82	88	—54	35	76	68	—11
Cayuga	(Combined with Pennsylvania figures)																
Coplay	48	59	+ 23	48	60	+ 25	40	42	+ 5	5	90	4	—96	17	76	34	—55
Dexter	60	55	—8	61	56	—8	133	†126	—21	13	82	12	—82	5	54	86	—83
Edison	104	141	+ 36	97	141	+ 45	26	50	+ 92	28	45	28	—38	63	254	158	—39
Giant L. V.	0	62	+	0	62	+	22	48	+ 118	1	1	1	0	26	34	40	+ 18
Giant Norfolk																	
Glens Falls	36	8	—78	34	7	—79	10	11	—10	22	11	23	+ 109	190	166	183	+ 11
Helderberg																	
Hercules	18	40	+ 122	30	44	+ 47	27	31	+ 15	7	16	3	—81	26	13	39	+ 160
Knickerbocker	90	58	—86	93	60	—35	21	24	+ 14	66	88	66	—25	138	216	174	—19
Lawrence	82	89	+ 9	84	90	+ 7	22	58	+ 141	18	49	15	—69	94	150	181	—18
Lehigh	149	840	+ 128	93	888	+ 73	118	250	+ 112	25	7	45	+ 548	412	785	495	—83
Nazareth	65	41	—87	64	28	—84	15	‡57	+ 280	17	86	35	—8	222	160	188	+ 18
Penn-Allen	0	50	+	0	50	+	18	18	—38	0	0	0		9	51	40	—22
Pennsylvania	180	116	—11	77	181	+ 70	38	51	+ 34	64	79	49	—38	75	120	135	+ 29
Phoenix	0	46	+	0	48	+	* 11	+		18	23	27	+ 17	11	0	45	+
Security	18	82	+ 146	5	15	+ 200	18	22	+ 69	2	36	20	—44	44	47	36	—28
Virginia																	
Vulcanite	0	76	+	0	76	+	25	40	+ 60	4	2	2	0	44	49	80	+ 68
TOTAL . .	1228	2204	+ 79	1168	2089	+ 79	720	1809	+ 82	508	945	642	—82	2046	3561	2825	—21

✓ In addition to this amount 86,967 bbls. were shipped by other mills.
 † Of this amount 15,879½ bbls. were shipped for another company.
 †† In addition to this amount 4,816 bbls. were shipped by another company.
 ‡ 20,000 bbls. appropriated for their own use have been deducted.
 § Of this amount 81,778 were shipped for account of other mills.
 * 15,408 bbls. were shipped for their account by other mills.
 ** 9,888 bbls. of this amount were shipped by other mills.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

Page 12

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF FEBRUARY, 1920

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 3 mos. 1919	First 3 mos. 1920	% Change	Feb. 1919	Feb. 1920	% Change	First 3 mos. 1919	First 3 mos. 1920	% Change	Feb. 1919	Feb. 1920	% Change	First 3 mos. 1919	First 3 mos. 1920	% Change	Feb. 1919	Feb. 1920	% Change	CLINKER				CEMENT			
																			Jan. 31, 1920	Feb. 28, 1919	Feb. 28, 1920	% Change	Jan. 31, 1920	Feb. 28, 1919	Feb. 28, 1920	% Change
Allentown	55	62	+ 13	31	39	+ 26	55	59	+ 8	31	37	+ 19	28	^(a) 14	-30	16	^(b) 9	-44	4	17	6	-65	25	36	58	-38
Alpha	164	514	+ 218	81	250	+ 209	107	414	+ 287	74	226	+ 205	118	261	+ 181	65	118	+ 82	270	387	295	-12	408	476	511	+ 7
Alsen																										
Atlas	665	1186	+ 71	341	508	+ 48	665	1186	+ 71	341	508	+ 48	448	582	+ 80	227	175	-28	0	0	0		495	994	822	-12
Bauh	81	112	+ 261	31	41	+ 32	14	58	+ 314	14	5	-64	84	25	-26	19	5	-74	88	100	74	-26	68	71	67	-6
Cayuga	(Combined with Pennsylvania figures)																									
Coplay	67	127	+ 90	18	68	+ 278	91	128	+ 41	42	68	+ 62	67	77	+ 15	27	35	+ 30	4	66	4	-94	34	91	86	-27
Dexter	114	94	-18	55	39	-29	118	86	-24	58	29	-45	^(c) 64	^(d) 89	-39	^(e) 81	^(f) 13	-58	12	34	22	-35	56	76	52	-32
Edison	213	229	+ 8	106	88	-17	208	230	+ 11	111	89	-29	52	83	+ 60	26	38	+ 27	26	40	26	-35	156	338	218	-37
Giant L. V.	89	112	+ 187	39	50	+ 28	39	112	+ 187	39	50	+ 28	68	84	+ 38	38	86	+ 0	1	1	1	0	40	40	54	+ 35
Giant Norfolk																										
Glens Falls	85	8	-91	49	0	-	83	7	-92	49	0	-	21	18	-14	10	7	-30	23	11	25	+ 109	183	205	173	-18
Holderberg																										
Hercules	65	69	+ 6	47	29	-38	65	61	-6	35	16	-54	42	47	+ 12	15	16	+ 7	3	28	16	-43	89	34	39	+ 15
Knickerbocker	162	79	-61	72	21	-71	167	82	-51	74	22	-70	84	34	0	13	10	-28	66	66	66	0	174	277	186	-33
Lawrence	137	153	+ 12	55	64	+ 16	102	129	+ 26	18	40	+ 122	44	84	+ 61	22	32	+ 45	15	86	41	-52	131	146	189	+ 5
Lehigh	329	585	+ 78	180	245	+ 36	404	599	+ 48	211	236	+ 26	240	390	+ 61	122	136	+ 11	45	8	32	+ 967	495	823	625	-24
Nazareth	161	99	-39	96	58	-40	177	72	-59	113	49	-57	47	^(g) 78	+ 66	32	^(h) 22	-31	35	22	65	+ 105	163	241	216	-10
Penn-Allen	46	74	+ 54	48	24	-50	48	74	+ 54	48	24	-50	82	25	-22	19	7	-63	0	0	0		40	81	37	-30
Pennsylvania	220	196	-11	91	80	-12	97	194	+ 100	21	68	+ 200	68	80	+ 21	28	29	+ 4	49	149	66	-56	155	112	189	+ 69
Phoenix	0	78	+	0	32	+	0	74	+	0	31	+	⁽ⁱ⁾	^(j) 20	-	^(k)	^(l) 9	-	27	25	25	+ 22	45	0	68	+
Security	34	68	+ 85	21	31	+ 48	29	46	+ 59	24	31	+ 29	38	51	+ 35	21	29	+ 38	20	34	21	-38	36	50	38	-24
Virginia																										
Vulcanite	81	161	+ 419	31	85	+ 174	38	160	+ 385	31	84	+ 171	51	61	+ 20	25	22	-12	2	8	2	-39	80	55	143	+ 180
TOTAL	2620	8951	+ 51	1892	1747	+ 26	2497	3721	+ 49	1829	1638	+ 23	1479	2049	+ 39	751	748	-1	642	1020	768	-25	2825	4188	3710	-10

(a) In addition 31,741 bbls. were shipped by other mills.
 (b) In addition 4,784 bbls. were shipped by other mills.
 (c) Includes 27,830 1/2 bbls. shipped for another mill.
 (d) In addition 6,969 bbls. were shipped by another mill.
 (e) Includes 12,451 bbls. shipped for another mill.
 (f) In addition 2,153 bbls. were shipped by another mill.
 (g) Includes 36,710 bbls. shipped for other mills.

(h) Includes 6,307 bbls. shipped for other mills.
 (i) 27,254 bbls. were shipped for them by other mills.
 (j) In addition 3,680 bbls. were shipped for them by other mills.
 (k) 12,451 bbls. were shipped for them by another mill.
 (l) In addition 165 bbls. were shipped for them by another mill.
 * 566 bbls. have been deducted for their own use.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

689

Form 32

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF MARCH, 1920

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 3 mos. 1919	First 3 mos. 1920	% Change	Mar. 1919	Mar. 1920	% Change	First 3 mos. 1919	First 3 mos. 1920	% Change	Mar. 1919	Mar. 1920	% Change	First 3 mos. 1919	First 3 mos. 1920	% Change	Mar. 1919	Mar. 1920	% Change	CLINKER			CEMENT				
																				Feb. 29, 1920	Mar. 31, 1919	Mar. 31, 1920	% Change	Feb. 29, 1920	Mar. 31, 1919	Mar. 31, 1920	% Change
Allentown	93	103	+ 11	40	43	+ 8	95	99	+ 4	40	40	0	60	^(a) 51	-15	31	^(b) 37	+ 19	6	17	10	-41	53	95	56	-41
Alpha	169	773	+ 357	4	239	+ 6875	110	630	+ 473	3	216	+ 7100	240	479	+ 100	127	217	+ 71	265	338	338	0	511	352	510	+ 45
Aisen																										
Atlas	1151	1771	+ 54	485	635	+ 31	1151	1771	+ 54	485	635	+ 31	727	976	+ 34	279	393	+ 42	0	0	0		822	1140	1062	-7
Bath	75	163	+ 117	43	51	+ 19	60	85	+ 29	53	27	-49	84	61	-27	50	38	-24	74	61	99	+ 6	67	78	58	-21
Cayuga	(Combined with Pennsylvania figures.)																									
Coplay	98	186	+ 100	27	39	+ 119	164	187	+ 14	73	59	-19	117	151	+ 29	30	74	+ 48	4	10	4	-79	66	113	52	-55
Dexter	182	135	-28	67	40	-40	154	107	-31	41	21	-49	^(c) 119	^(d) 81	-32	^(e) 53	^(f) 48	-22	22	60	41	-32	52	62	80	-52
Edison	525	312	-4	111	88	-25	324	299	-8	115	69	-40	99	172	+ 74	53	90	+ 70	26	36	40	+ 11	213	408	191	-58
Giant L. V.	87	171	+ 97	48	59	+ 23	87	170	+ 95	48	53	+ 21	110	152	+ 38	47	68	+ 45	1	1	2	+ 100	54	41	44	+ 7
Giant Norfolk																										
Glens Falls	135	12	-91	50	4	-92	128	8	-94	45	1	-98	34	31	-9	13	13	0	23	16	26	+ 63	178	285	166	-29
Helderberg																										
Hercules	109	95	-13	44	26	-41	101	84	-17	36	28	-26	69	92	+ 33	26	44	+ 69	16	36	19	-47	39	44	18	-59
Knickerbocker	162	139	-14	0	59	-	167	143	-14	0	61	-	75	56	-25	41	22	-46	66	66	66	0	186	235	225	-4
Lawrence	198	239	+ 21	61	86	+ 41	151	205	+ 36	48	76	+ 58	84	146	+ 74	40	62	+ 55	41	101	53	-48	139	154	153	-1
Lehigh	538	867	+ 61	210	281	+ 34	626	893	+ 43	222	294	+ 32	417	609	+ 46	177	284	+ 60	32	5	29	+ 480	625	870	636	-27
Nazareth	273	172	-37	112	73	-35	252	150	-40	75	77	+ 3	103	^(g) 133	+ 31	55	^(h) 56	+ 2	45	60	43	-28	216	260	237	-9
Penn-Allen	108	127	+ 18	60	53	-12	108	127	+ 18	60	53	-12	58	54	-7	26	29	+ 12	0	0	0		57	114	82	-28
Pennsylvania	296	304	+ 3	75	108	+ 44	143	302	+ 111	45	108	+ 140	124	⁽ⁱ⁾ 169	+ 36	58	^(j) 89	+ 53	66	179	66	-63	189	99	208	+ 110
Phoenix	0	123	+	0	45	+	0	116	+	0	41	+	^(k)	^(l) 49	+	^(m)	29	+	28	23	32	+ 39	68	⁽ⁿ⁾	80	+
Security	*																									
Virginia																										
Vulcanite	81	203	+ 151	40	42	-14	70	202	+ 156	48	41	-15	97	126	+ 30	47	65	+ 38	2	4	8	-25	148	56	119	+ 113
TOTAL	4077	5897	+ 45	1486	2006	+ 35	8906	5578	+ 43	1487	1900	+ 32	2617	3650	+ 39	1173	1853	+ 41	747	1052	871	-17	3678	4853	3927	-10

(a) In addition 31,741 bbls. were shipped by other mills.
 (b) Includes 520 bbls. shipped for another mill.
 (c) Includes 40,272 bbls. shipped for another mill.
 (d) Includes 165 bbls. shipped for another mill, and in addition 4,740 1/2 bbls. were shipped by another mill.
 (e) Includes 26,442 bbls. shipped for another mill.
 (f) Includes 161 bbls. shipped for another mill, and in addition 1,805 1/2 bbls. were shipped by another mill.
 (g) Includes 39,530 bbls. shipped for other mills.
 (h) Includes 520 bbls. shipped for another mill.
 (i) Includes 2,095 bbls. shipped for another mill.
 (j) 46,990 bbls. were shipped for them by other mills.
 (k) In addition 3,664 bbls. were shipped for them by other mills.
 (l) 21,136 bbls. were shipped for them by other mills.
 (m) Stock overrun.
 (n) Not reported.
 (o) 1,100 bbls. have been appropriated for their own use.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

Page 12

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF APRIL, 1920

MANUFACTURERS	TOTAL PRODUCTION CEMENTS						CEMENT GRIND						SHIPMENTS						STOCK ON HAND							
	First 4 mos. 1919	First 4 mos. 1920	% Change	Apr. 1919	Apr. 1920	% Change	First 4 mos. 1919	First 4 mos. 1920	% Change	Apr. 1919	Apr. 1920	% Change	First 4 mos. 1919	First 4 mos. 1920	% Change	Apr. 1919	Apr. 1920	% Change	Mar. 31, 1920	Apr. 30, 1919	Apr. 30, 1920	% Change	Mar. 31, 1920	Apr. 30, 1919	Apr. 30, 1920	% Change
Allentown	180	158	+18	85	48	+87	180	144	+11	85	45	+29	104	^(a) 104	0	44	58	+20	10	17	14	-18	56	86	48	-44
Alpha	917	1090	+240	148	828	+118	945	977	+297	186	847	+133	408	828	+78	225	855	+38	838	850	814	-10	510	260	302	+98
Allen																										
Atlas	1615	2448	+52	465	877	+46	1615	2448	+52	465	877	+46	1179	1820	+57	452	844	+42	0	0	0		1062	1158	1095	-5
Bath	182	209	+88	57	45	-19	122	140	+15	56	35	-2	138	111	-27	60	40	-29	99	92	90	-2	58	60	64	+7
Cayuga	(Combined with Pennsylvania figures)																									
Coplay	157	258	+61	68	86	+25	282	254	-9	88	87	-1	182	230	+28	95	78	-20	4	15	3	-80	52	118	40	-66
Dexter	258	188	-25	71	58	-25	231	154	-33	78	48	-37	^(b) 201	^(c) 129	-36	^(d) 88	^(e) 47	-45	41	35	47	+15	80	55	81	-44
Edison	482	890	+86	107	84	-21	437	896	+9	113	97	-14	176	265	+51	77	98	+21	40	80	27	-10	191	444	195	-55
Giant L. V.	166	250	+51	79	78	-1	166	250	+51	79	78	-1	201	214	+6	91	82	-12	2	1	2	+100	44	26	81	+110
Giant Norfolk																										
Glens Falls	184	68	-63	40	58	+14	170	61	-64	32	58	+8	85	100	+14	81	89	+12	24	14	23	+79	186	257	154	-40
Heidelberg																										
Hercules	142	186	+32	57	41	-28	188	121	-36	87	88	+1	108	122	+12	40	80	+10	10	32	22	-31	16	40	25	-37
Knickerbocker	102	220	+86	0	81	+	107	928	+85	0	63	+	108	202	+87	82	146	+85	66	66	66	0	225	208	168	-20
Lawrence	806	858	+18	105	119	+18	283	811	+284	92	106	+16	187	230	+23	88	118	+30	58	127	70	-45	158	158	146	-8
Lehigh	756	1205	+59	218	840	+289	882	1384	+562	206	840	+308	600	977	+64	288	807	+17	29	24	40	+67	638	818	660	-18
Nazareth	844	228	-73	71	56	-21	811	209	-75	60	59	-2	137	^(f) 207	+50	54	78	+43	48	73	41	-44	287	266	228	-16
Penn-Allen	168	182	+8	80	55	-31	168	180	+7	80	55	-31	28	93	+2	63	41	-35	0	0	0		82	140	97	-31
Pennsylvania	601	428	-29	106	122	+15	255	425	+65	118	128	+8	221	^(g) 276	+25	96	108	+12	66	172	83	-42	208	115	222	+95
Phoenix	0	161	+	0	87	+	0	132	+	0	86	+	^(h)	⁽ⁱ⁾ 98	+	^(j)	47	+	82	78	25	+52	80	^(k)	69	+
Security *	Not reported.																									
Virginia																										
Vulcanite	157	275	+75	78	72	-8	155	276	+78	76	73	-4	138	237	+47	81	106	+30	8	4	8	+100	119	72	87	+21
TOTAL	5819	8254	+42	1743	2354	+35	5616	7064	+25	1714	2885	+68	4432	6074	+37	1804	2422	+34	871	1095	884	-21	8927	4254	3891	-9

- (a) In addition 21,741 bbls. were shipped by other mills.
 (b) Includes 80,344 bbls. shipped for another mill.
 (c) Includes 168 bbls. shipped for another mill and in addition 17,728 bbls. were shipped by another mill.
 (d) Includes 21,112 bbls. shipped for another mill.
 (e) In addition 1,918 bbls. were shipped by another mill.
 (f) Includes 39,230 bbls. shipped for other mills.
 (g) Includes 1,046 bbls. shipped for another mill.
 (h) 21,424 bbls. were shipped for their account by other mills.
 (i) In addition 6,688 bbls. were shipped by other mills.
 (j) 23,416 bbls. were shipped for their account by another mill.
 (k) Stock overran millmate.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

Form 13

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF MAY, 1920

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 5 mos. 1919	First 5 mos. 1920	% Change	May, 1919	May, 1920	% Change	First 5 mos. 1919	First 5 mos. 1920	% Change	May, 1919	May, 1920	% Change	First 5 mos. 1919	First 5 mos. 1920	% Change	May, 1919	May, 1920	% Change	CLINKER				CEMENT			
																				Apr. 30, 1920	May 31, 1919	May 31, 1920	% Change	Apr. 30, 1920	May 31, 1919	May 31, 1920	% Change
Allentown	179	212	+18	49	56	+18	183	204	+11	53	60	+13	180	^(a) 169	-6	76	65	-14	14	13	12	-8	45	62	43	-31
Alpha	516	1431	+177	200	885	+68	508	1315	+159	262	338	+29	701	1196	+71	223	365	+57	314	288	311	+8	502	239	475	+64
Alsen																										
Atlas	2092	3165	+51	477	717	+50	2092	3165	+51	477	717	+50	1687	2154	+28	509	534	+5	0	0	0		1006	1121	1279	+14
Bath	199	291	+46	67	82	+22	215	209	-3	93	69	-26	241	169	-30	88	53	-34	90	66	102	+55	64	65	75	+15
Cayuga	81	173	+114	49	39	-20	61	147	+141	32	39	+22	60	125	+108	27	45	+67	55	49	65	+33	66	73	60	-18
Coplay	243	317	+30	86	65	-24	318	322	+1	86	68	-21	272	296	+8	90	66	-27	3	15	0	-	40	113	43	-62
Dexter	325	249	-23	72	61	-15	308	211	-31	77	57	-26	^(b) 308	^(c) 182	-41	^(d) 107	^(e) 54	-60	47	49	51	+4	31	26	34	+31
Edison	553	554	0	121	159	+31	562	551	-2	125	155	+24	270	420	+56	93	155	+67	27	28	34	+31	196	476	^(f) 198	-59
Giant L. V.	250	346	+38	84	96	+14	250	346	+38	84	96	+14	263	291	+11	61	78	+28	2	1	2	+100	61	52	79	+52
Giant Norfolk																										
Glens Falls	235	127	-46	51	59	+16	216	120	-44	37	56	+51	104	156	+50	39	56	+44	25	28	28	0	154	255	154	-40
Helderberg																										
Hercules	199	185	-7	58	49	-15	136	158	+12	48	42	-13	157	158	+1	49	37	-24	22	42	29	-31	25	40	30	-25
Knickerbocker	239	297	+24	77	77	0	244	306	+25	77	80	+4	150	344	+129	43	142	+230	66	66	66	0	163	228	100	-58
Lawrence	410	497	+21	107	139	+30	323	403	+25	90	92	+2	258	363	+41	91	103	+13	70	146	120	-18	146	152	134	-12
Lehigh	982	1555	+58	226	348	+54	1061	1598	+51	228	365	+60	959	1252	+31	279	276	-1	40	30	39	+30	609	762	758	-1
Nazareth	425	320	-25	81	92	+14	400	296	-26	88	88	0	221	^(g) 268	+21	64	61	-5	41	67	47	-30	228	250	249	-14
Penn-Allen	212	245	+16	44	62	+41	212	245	+16	44	62	+41	137	140	+2	45	45	0	0	0	0		97	139	114	-18
Pennsylvania	474	407	-14	103	115	+12	344	407	+18	117	90	-23	287	^(h) 270	+1	79	72	-9	0	126	25	-80	156	86	173	+101
Phoenix	0	223	+	0	62	+	0	215	+	0	63	+	⁽ⁱ⁾	^(j) 159	+	^(k)	63	+	35	23	36	+57	69	0	63	+
Security	Not Reported.																									
Virginia																										
Vulcanite	242	404	+67	86	129	+50	242	405	+67	87	129	+48	231	341	+48	74	109	+47	3	4	3	-25	87	85	107	+26
Total . . .	7866	10996	+40	2038	2744	+35	7725	10628	+38	2105	2608	+27	6466	8454	+31	2047	2384	+16	864	1039	970	-7	3891	4334	4168	-4

(a) In addition 31,741 bbls. were shipped by other mills.
(b) Includes 118,239 1/2 bbls. shipped for another mill.
(c) In addition 14,890 1/2 bbls. were shipped by another mill—includes also 185 bbls. shipped for another mill.
(d) Includes 34,555 bbls. shipped for another mill.
(e) In addition 173 bbls. were shipped by another mill.
(f) 2,394 bbls. have been deducted for use at their mill.
(g) Includes 39,250 bbls. shipped for other mills.
(h) Includes 2,995 bbls. shipped for another mill.
(i) Includes 118,089 1/2 bbls. shipped by another mill.
(j) In addition 3,468 bbls. were shipped by other mills.
(k) 35,382 bbls. were shipped by another mill.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

692

Govt Ex. No. 47

Form 12

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF JUNE, 1920

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 6 mos. 1919	First 6 mos. 1920	% Change	June 1919	June 1920	% Change	First 6 mos. 1919	First 6 mos. 1920	% Change	June 1919	June 1920	% Change	First 6 mos. 1919	First 6 mos. 1920	% Change	June 1919	June 1920	% Change	CLINKER				CEMENT			
																			May 31 1920	June 30 1919	June 30 1920	% Change	May 31 1920	June 30 1919	June 30 1920	% Change
Allentown	248	271	+9	69	59	-14	254	261	+3	72	57	-21	263	^(a) 230	-13	83	^(b) 62	-25	12	10	14	+40	43	51	38	-25
Alpha	814	1752	+115	298	321	+8	814	1645	+102	307	331	+8	987	1631	+65	287	433	+51	311	280	301	+8	475	309	373	+21
Alton																										
Atlas	2555	3671	+44	463	506	+9	2555	3671	+44	463	506	+9	2269	2872	+27	582	718	+23	0	0	0		1279	1002	1066	+6
Bath	278	343	+23	79	51	-35	313	288	-8	98	78	-20	335	251	-25	95	82	-14	102	47	75	+60	75	69	71	+8
Cayuga	116	213	+84	35	40	+14	87	202	+132	26	55	+112	92	193	+110	31	68	+119	65	58	50	-14	60	67	47	-30
Coplay	334	412	+23	91	96	+4	409	417	+2	91	95	+4	387	398	+3	115	103	-10	0	15	0	-	43	89	34	-62
Dexter	396	306	-23	71	56	-21	396	269	-32	88	58	-34	^(c) 411	^(d) 257	-37	^(e) 103	^(f) 75	-27	51	32	49	+53	34	11	17	+55
Edison	706	703	0	153	149	-3	711	698	-2	149	147	-1	405	583	+44	135	163	+21	34	30	36	+20	193	490	^(g) 176	-64
Giant L. V.	331	446	+35	81	100	+23	331	446	+35	81	100	+23	338	423	+25	75	132	+76	2	1	2	+100	79	58	47	-19
Giant Norfolk																										
Glens Falls	281	181	-36	46	54	+17	265	171	-35	49	51	+4	154	225	+46	50	69	+38	28	25	32	+28	154	258	136	-46
Halderberg																										
Hercules	248	247	0	49	62	+27	242	211	-13	56	48	-14	222	210	-5	64	52	-19	29	34	43	+26	30	32	26	-19
Knickerbocker	325	398	+19	87	89	+2	331	397	+20	87	91	+5	214	459	+114	64	115	+80	66	66	66	0	100	251	77	-71
Lawrence	511	636	+23	101	129	+28	419	548	+31	97	145	+49	371	529	+43	113	166	+47	120	154	108	-30	134	136	113	-17
Lahigh	1225	1857	+52	243	303	+25	1306	1927	+43	245	328	+34	1324	1679	+27	365	427	+17	39	37	29	-22	758	641	659	+3
Nazareth	506	398	-22	80	73	-9	479	370	-23	79	74	-6	291	^(h) 378	+30	70	109	+56	47	69	48	-30	249	299	214	-28
Penn-Allen	266	306	+15	54	60	+11	266	306	+15	54	60	+11	187	210	+12	50	70	+40	0	0	0		114	143	104	-27
Pennsylvania	582	513	-12	108	106	-2	464	503	+8	120	96	-20	364	⁽ⁱ⁾ 380	+4	97	110	+13	25	114	35	-69	173	109	156	+46
Phoenix	0	296	+	0	73	+	0	274	+	0	59	+	^(j)	^(k) 231	+	^(l)	68	+	36	23	52	+126	68	^(m)	69	+
Security	Not Reported.																									
Virginia																										
Vulcanite	337	527	+56	95	123	+29	339	526	+55	97	121	+25	326	479	+47	94	138	+47	3	4	5	+25	107	88	90	+2
Total . . .	10058	18447	+34	2203	2449	+11	9950	13129	+32	2259	2500	+11	8940	11613	+30	2473	3160	+28	970	999	945	-5	4168	4108	3506	-15

(a) In addition 72,340 bbls. were shipped by other mills.

(b) In addition 619 bbls. were shipped by other mills.

(c) Includes 160,282 bbls. shipped for another mill.

(d) In addition 15,458 bbls. were shipped by another mill—includes

180 bbls. shipped for another mill.

(e) Includes 25,059 bbls. shipped for another mill.

(f) In addition 695 bbls. were shipped by another mill.

(g) 763 bbls. have been deducted for use at their mill.

(h) Includes 39,230 bbls. shipped for other mills.

(i) Includes 3,084 bbls. shipped for another mill.

(j) 184,620 bbls. were shipped for their account by other mills.

(k) In addition 3,606 bbls. were shipped by other mills.

(l) 41,531 bbls. were shipped for their account by other mills.

(m) Blank overran.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

693

Form 12

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF JULY, 1920

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 7 mos. 1919	First 7 mos. 1920	% Change	July 1919	July 1920	% Change	First 7 mos. 1919	First 7 mos. 1920	% Change	July 1919	July 1920	% Change	First 7 mos. 1919	First 7 mos. 1920	% Change	July 1919	July 1920	% Change	CLINKER				CEMENT			
																			June 30 1920	July 31 1919	July 31 1920	% Change	June 30 1920	July 31 1919	July 31 1920	% Change
Allentown	320	295	-8	72	25	-65	327	292	-11	73	31	-58	345	(*)284	-18	82	(*)54	-34	14	9	8	-11	38	42	16	-62
Alpha	1122	2044	+82	308	292	-5	1118	1949	+74	304	304	0	1243	2049	+65	256	418	+63	301	283	280	+2	373	357	258	-28
Aisen																										
Atlas	3101	4168	+34	546	498	-9	3101	4168	+34	546	498	-9	2897	3733	+29	628	861	+37	0	0	0	0	1066	921	703	-24
Bath	359	383	+7	81	41	-49	410	349	-15	97	61	-37	432	342	-21	96	90	-6	75	30	55	+83	71	69	42	-39
Cayuga	150	259	+73	34	46	+35	129	258	+100	42	56	+33	135	276	+104	44	82	+89	50	50	40	-20	47	66	19	-71
Coplay	453	548	+21	119	135	+13	529	547	+3	126	130	+3	491	519	+6	104	121	+16	0	14	6	-57	34	104	(*)52	-50
Dexter	475	373	-21	79	68	-14	480	356	-26	84	87	+4	(*)487	(*)335	-31	(*)76	(*)78	+3	49	28	30	+70	17	20	26	+30
Edison	842	896	+6	136	133	-2	842	848	+1	131	149	+14	564	772	+37	159	188	+18	36	35	25	-29	176	462	136	-71
Giant L. V.	416	557	+34	85	111	+31	416	558	+34	85	112	+32	410	556	+36	72	133	+85	2	1	1	0	47	71	26	-63
Giant Norfolk																										
Glens Falls	323	181	-44	42	0	-	315	171	-46	50	0	-	215	265	+24	61	41	-33	32	17	32	+88	136	242	95	-61
Helderberg																										
Hercules	299	298	0	51	52	+2	300	267	-11	58	56	-3	288	250	-10	66	50	-24	43	27	39	+44	26	24	33	+38
Knickerbocker	413	451	+9	88	65	-26	422	465	+10	91	68	-25	287	549	+91	73	90	+23	66	66	65	-2	77	279	54	-81
Lawrence	599	726	+21	88	100	+14	586	682	+20	147	134	-9	508	728	+43	138	200	+45	108	98	79	-19	113	145	47	-68
Lehigh	1585	1974	+29	310	117	-62	1630	2039	+25	325	112	-66	1725	2166	+26	400	487	+22	29	33	38	+15	659	566	285	-50
Nazareth	573	462	-19	89	69	0	555	445	-20	76	75	-1	357	(*)516	+45	66	138	+109	48	63	44	-30	214	309	151	-51
Penn-Allen	322	342	+6	56	37	-34	322	342	+6	56	37	-34	250	291	+16	63	81	+29	0	0	0	0	104	136	60	-56
Pennsylvania	676	610	-10	94	97	+3	581	615	+6	117	112	-4	494	(*)530	+7	(*)130	150	+15	35	91	20	-78	159	95	121	+27
Phoenix	0	363	+	0	67	+	0	339	+	0	65	+	(*)	(*)306	+	(*)	75	+	52	0	57	+	59	(*)	49	+
Security	363	441	+21	58	76	+31	362	406	+12	68	75	+10	329	432	+31	66	85	+30	37	40	38	-5	44	88	35	-60
Virginia																										
Vulcanite	427	586	+37	90	59	-34	430	592	+38	91	66	-27	424	597	+41	98	118	+20	5	2	2	0	90	80	38	-63
Total	12768	15897	+24	2406	2068	-13	12835	15688	+22	2561	2228	-13	11881	15507	+31	2678	3542	+32	982	887	968	-2	3550	4076	2246	-45

(a) In addition 33,830 bbls. were shipped by other mills.

(b) In addition 1,270 bbls. were shipped by other mills.

(c) Includes an adjustment of 10,990 bbls. made after cleaning

and 572 bbls. have been deducted for use at their mill.

(d) Includes 140,382 1/2 bbls. shipped for another mill and in ad-

dition 5,893 bbls. were shipped by another mill.

(e) Includes 166 bbls. shipped for another mill and in addition

18,759 1/2 bbls. were shipped by another mill.

(f) In addition 3,893 bbls. were shipped by another mill.

(g) In addition 1,179 bbls. were shipped by another mill.

(h) Includes 39,230 bbls. shipped for other mills.

(i) Includes 2,096 bbls. shipped for another mill.

(j) Includes 47,692 bbls. shipped for other mills.

(k) 197,510 bbls. were shipped for their account by other mills.

(l) In addition 3,888 bbls. were shipped by other mills.

(m) 40,890 bbls. were shipped for their account by other mills.

(n) Stock overrun.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF AUGUST, 1920

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 5 mos. 1919	First 5 mos. 1920	% Change	August 1919	August 1920	% Change	First 5 mos. 1919	First 5 mos. 1920	% Change	August 1919	August 1920	% Change	First 5 mos. 1919	First 5 mos. 1920	% Change	August 1919	August 1920	% Change	July 31 1920	August 31 1919	August 31 1920	% Change	July 31 1920	August 31 1919	August 31 1920	% Change
Allentown	389	354	-9	69	58	-16	398	349	-12	71	57	-20	423	(a)340	-20	78	(b)56	-28	8	7	9	+28	16	35	17	-51
Alpha	1465	2337	+60	343	282	-15	1451	2286	+58	333	237	+1	1573	2469	+56	330	411	+25	289	298	245	-16	258	360	184	-4
Alsen																										
Atlas	3773	4693	+24	672	525	-22	3773	4693	+24	672	525	-22	3658	4557	+25	761	824	+8	0	0	0	0	703	896	404	-55
Bath	443	468	+6	84	85	+1	500	444	-11	90	95	+6	510	442	-13	78	100	+28	55	25	45	+80	42	81	37	-54
Cayuga	190	306	+60	40	46	+15	178	313	+76	49	55	+12	188	336	+79	53	60	+13	40	41	31	-24	19	61	13	-79
Coplay	546	658	+21	94	111	+18	632	658	+4	104	111	+7	613	651	+6	121	132	+9	6	4	5	+25	52	86	(c)31	-64
Dexter	555	451	-19	80	78	-3	573	433	-24	92	77	-16	(d)570	(e)420	-26	(f)83	86	+4	30	15	32	+113	26	29	17	-41
Edison	990	984	0	148	148	0	994	990	0	152	143	-6	771	919	+19	207	147	-29	25	31	30	-3	136	406	(g)130	-68
Giant L. V.	500	658	+32	84	101	+20	500	658	+32	84	101	+20	494	667	+35	92	110	+20	1	1	1	0	26	62	17	-73
Giant Norfolk																										
Glens Falls	371	181	-51	48	0	-	367	171	-53	52	0	-	273	304	+11	58	39	-33	32	13	32	+146	95	236	56	-76
Helderberg																										
Hercules	360	351	-3	60	53	-12	360	328	-10	60	56	-7	352	327	-7	64	67	+5	39	28	35	+25	33	20	22	+10
Knickerbocker	476	491	+3	68	40	-37	486	506	+4	64	41	-36	400	617	+54	113	69	-39	65	66	65	-2	54	251	(h)26	-99
Lawrence	700	845	+21	101	119	+18	677	823	+22	111	141	+27	632	297	+42	124	169	+36	79	92	60	-35	47	132	20	-85
Lehigh	1876	2319	+24	341	345	+1	1975	2432	+23	345	393	+14	2175	2609	+20	450	443	-2	38	42	51	+21	285	461	235	-49
Nazareth	647	556	-14	74	94	+27	635	547	-14	80	103	+29	446	(i)635	+42	89	120	+35	44	59	37	-37	151	300	134	-55
Penn-Allen	386	404	+5	64	62	-3	386	404	+5	64	62	-3	318	393	+24	67	102	+52	0	0	0	0	60	138	20	-85
Pennsylvania	778	703	-10	102	93	-9	714	728	+2	133	113	-15	637	(j)688	+8	143	158	+10	20	60	0	-	121	85	76	-11
Phoenix	0	417	+	0	54	+	0	401	+	0	62	+	(k)393	(l)393	+	(m)87	87	+	57	23	52	+126	49	(n)24	24	+
Security	428	511	+19	65	70	+8	441	501	+14	78	78	0	414	515	+24	85	82	-4	38	30	32	+7	35	82	31	-62
Virginia																										
Vulcanite	321	714	+37	94	127	+35	521	720	+38	91	127	+40	543	712	+31	119	115	-3	2	3	4	+33	38	52	51	-2
Total . . .	15394	18400	+20	2626	2501	-5	15561	18380	+18	2725	2677	-2	14990	18882	+26	3115	3377	+8	968	833	766	-8	2246	3748	1545	-59

(a) in addition 37,147 bbls. were shipped by other mills.

(a) In addition 37,147 bbls. were shipped by other mills.
(b) In addition 3,517 bbls. were shipped by other mills.
(c) 620 bbls. have been deducted for their own use.
(d) Includes 140,282 1/2 bbls. shipped for other mills and in addition 14,628 bbls. were shipped for them by other mills.
(e) In addition 16,752 1/2 bbls. were shipped by other mills and included are 155 bbls. shipped for another mill.
(f) In addition 5,335 bbls. were shipped for their account by other mills.
(g) 1,872 bbls. used at their mill have been deducted.

(h) This balance taken into consideration 800 bbls. destroyed by fire in warehouse.
(i) Includes 29,229 bbls. shipped for other mills.
(j) Includes 2,696 bbls. shipped for another mill.
(k) 243,366 bbls. were shipped for their account by other mills.
(l) In addition 3,646 bbls. were shipped by other mills.
(m) 45,856 bbls. shipped for their account by other mills.
(n) Stock overrun.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

695

Form 12

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF SEPTEMBER, 1920

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 9 mos. 1919	First 9 mos. 1920	% Change	Sept. 1919	Sept. 1920	% Change	First 9 mos. 1919	First 9 mos. 1920	% Change	Sept. 1919	Sept. 1920	% Change	First 9 mos. 1919	First 9 mos. 1920	% Change	Sept. 1919	Sept. 1920	% Change	August 31 1919	CLINKER			CEMENT			
	Sept. 30 1919	Sept. 30 1920	% Change																	Sept. 30 1919	Sept. 30 1920	% Change	August 31 1920	Sept. 30 1919	Sept. 30 1920	% Change
Allentown	461	420	— 9	72	66	— 8	471	413	—12	73	65	—11	498	(a)405	—19	75	(b)65	—13	9	6	11	+83	17	33	16	—51
Alpha	1788	2620	+47	324	283	—13	1821	2627	+44	370	211	— 8	1989	2373	+44	416	412	— 1	245	247	186	—25	184	314	113	—64
Alsen																										
Atlas	4452	5263	+18	679	570	—16	4452	5263	+18	679	570	—16	4640	5330	+15	983	773	—21	0	0	0	0	404	528	201	—62
Bath	526	560	+ 6	82	91	+11	580	554	— 4	80	110	+38	628	564	—10	119	122	+ 3	45	27	26	— 4	37	43	25	—42
Cayuga	225	351	+56	35	46	+31	224	364	+63	46	51	+11	256	388	+52	67	52	—22	31	30	26	—18	13	40	11	—73
Coplay	637	762	+20	91	105	+15	733	778	+ 6	100	120	+20	732	779	+ 6	119	128	+ 8	5	4	0	+	31	67	(c)21	—69
Dexter	628	524	—17	73	72	— 1	651	504	—23	78	71	— 9	(d)660	(e)506	—23	(f)90	85	— 6	32	10	33	+230	17	17	8	—82
Edison	1160	1109	— 4	169	125	—26	1168	1125	— 4	174	135	—22	1013	1082	+ 7	241	163	—32	30	27	20	—26	130	339	(g)97	—71
Giant L. V.	587	771	+31	87	113	+30	587	771	+31	87	113	+30	614	772	+26	120	105	—13	1	1	1	0	17	29	25	—14
Giant Norfolk																										
Glens Falls	419	182	—57	48	1	—98	412	176	—57	45	5	—89	349	333	— 5	76	29	—62	32	16	26	+75	56	206	32	—84
Helderberg																										
Hercules	413	406	— 2	63	55	+ 4	422	389	— 8	62	65	+ 5	413	398	— 4	61	71	+16	35	19	25	+82	22	26	17	—15
Knickerbocker	538	591	+10	62	100	+61	550	611	+11	64	105	+64	561	722	+29	161	104	—35	65	65	63	— 5	26	134	27	—80
Lawrence	803	906	+20	103	121	+17	806	988	+23	129	165	+28	796	1082	+36	186	155	+11	60	70	26	—63	20	96	0	—
Lehigh	2225	2669	+20	349	349	0	2379	2816	+18	404	884	— 5	2561	2997	+13	486	388	—20	51	30	52	+73	235	379	231	—39
Nazareth	715	653	— 9	68	97	+43	716	652	— 9	81	105	+30	544	(h)771	+42	98	135	+38	37	48	32	—33	134	233	103	—64
Penn-Allen	448	466	+ 4	62	62	0	448	466	+ 4	62	62	0	421	465	+10	103	72	—30	0	0	0	0	20	92	0	—90
Pennsylvania	887	795	—10	109	92	—16	808	820	+ 1	94	92	— 2	772	(i)835	+ 8	135	146	+ 8	0	75	0	—	76	44	21	—62
Phoenix	31	482	+1455	31	65	+110	24	476	+1883	24	75	+213	(j)10	(k)473	+4630	(l)8	80	+900	52	31	46	+48	24	16	19	+19
Security	493	581	+18	65	70	+ 8	518	570	+10	77	69	—10	502	595	+19	88	80	— 9	32	20	36	+80	31	71	19	—78
Virginia																										
Vulcanite	638	832	+30	117	118	+ 1	645	839	+30	124	119	— 4	587	854	+24	144	142	— 1	4	8	6	+100	51	32	27	—16
Total . . .	18074	21003	+16	2679	2601	— 3	18415	21202	+15	2853	2822	— 1	18748	22224	+19	3756	3337	—11	766	730	617	—15	1545	2781	1017	—63

(a) In addition 42,722 bbls. were shipped by other mills.
 (b) In addition 5,575 bbls. were shipped by other mills.
 (c) 1,227 bbls. used at their mill have been deducted.
 (d) Includes 140,242 bbls. shipped for other mills, and in addition 22,893 bbls. were shipped for their account by other mills.
 (e) Includes 165 bbls. shipped for another mill and in addition 16,759 bbls. were shipped by other mills.

(f) In addition 8,255 bbls. were shipped by other mills.
 (g) 4,923 bbls. used at their own mill have been deducted.
 (h) Includes 39,230 bbls. shipped for other mills.
 (i) Includes 2,086 bbls. shipped for another mill.
 (j) In addition 58,821 bbls. were shipped by other mills.
 (k) In addition 5,868 bbls. were shipped by other mills.
 (l) In addition 45,455 bbls. were shipped by other mills.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF OCTOBER, 1920

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 15 mos. 1919	First 15 mos. 1920	% Change	Oct. 1919	Oct. 1920	% Change	First 15 mos. 1919	First 15 mos. 1920	% Change	Oct. 1919	Oct. 1920	% Change	First 15 mos. 1919	First 15 mos. 1920	% Change	Oct. 1919	Oct. 1920	% Change	Sept. 30 1920	CLINKER			CEMENT			
																				Oct. 31 1919	Oct. 31 1920	% Change	Sept. 30 1920	Oct. 31 1919	Oct. 31 1920	% Change
Allentown	527	482	-9	65	62	-6	537	479	-11	66	66	0	563	471	-17	69	65	-6	11	6	7	+17	16	31	16	-48
Alpha	2141	2946	+38	353	326	-8	2168	3045	+40	347	416	+20	2344	3347	+43	355	474	+34	186	252	96	+82	113	306	55	-82
Alsen																										
Atlas	5161	5971	+16	709	706	0	5162	5971	+16	710	706	0	5543	6461	+9	902	721	-19	0	0	0	0	201	399	177	-56
Bath	616	650	+6	90	90	0	680	652	-2	100	108	+8	736	694	-4	98	130	+33	26	17	8	-53	25	45	2	-96
Cayuga	266	401	+51	41	50	+22	259	417	+61	55	53	+32	299	437	+46	43	49	+14	26	36	23	+36	11	32	14	-56
Coplay	734	904	+23	97	145	+46	826	1008	+9	103	140	+36	839	921	+10	108	142	+31	0	8	2	-75	21	61	10	-69
Dexter	717	591	-18	89	67	-25	734	584	-20	88	80	-4	731	584	-22	191	78	-14	33	16	20	+25	3	9	5	-44
Edison	1305	1244	-5	145	136	-7	1320	1256	-5	152	130	-14	1302	1237	-2	249	155	-38	20	20	25	+25	97	242	10	-71
Giant L. V.	688	895	+30	101	124	+23	688	895	+30	101	124	+23	721	908	+26	106	136	+28	1	1	1	0	25	23	18	-43
Giant Norfolk																										
Glens Falls	468	195	-58	49	14	-71	463	180	-61	51	5	-90	442	330	-26	92	27	-71	26	14	37	+164	32	163	10	-94
Heldberg																										
Herricks	471	471	0	58	65	+12	489	444	-9	67	56	-16	478	461	-4	66	54	-3	25	10	54	+240	17	21	9	-57
Knickerbocker	622	700	+13	84	109	+30	627	726	+14	87	115	+32	632	840	+23	122	118	-3	63	66	61	+3	27	99	24	-73
Lawrence	926	1122	+21	122	156	+27	974	1166	+20	168	177	+5	1091	1249	+15	202	187	-7	26	31	11	+35	0	60	11	-82
Lehigh	2579	3024	+17	354	365	0	2757	3219	+17	373	404	+7	3077	3456	+12	416	459	+10	52	30	44	+47	231	341	176	-46
Nazareth	708	708	0	68	110	+62	806	779	-4	92	121	+32	856	828	-4	112	153	+41	32	25	23	+8	103	283	66	-75
Penn-Allen	610	531	-13	62	65	+5	510	531	+4	62	65	+5	531	524	-1	110	50	-55	0	0	0	0	9	45	15	-65
Pennsylvania	902	927	+3	106	132	+26	828	962	+16	120	132	+10	915	977	+7	142	142	0	0	60	0	-	21	21	11	-48
Phoenix	96	545	+568	50	62	+15	31	545	+173	57	70	+23	107	546	+408	148	74	+64	46	29	42	+45	19	23	16	-30
Security	539	636	+16	76	75	-1	602	651	+8	85	81	-5	618	671	+9	110	76	-31	36	15	32	+146	19	46	25	-46
Virginia																										
Vulcanite	777	976	+26	159	144	-9	785	986	+26	140	148	+6	817	1006	+23	130	152	+17	6	3	2	-33	27	42	22	-45
Total . . .	20988	23963	+15	2854	2991	+4	21419	24388	+14	3004	3199	+6	2321	26678	+15	3671	3456	-2	617	637	462	+27	1017	2272	757	-67

(a) In addition, 43,341 bbls. were shipped by other mills.
(b) In addition, 5,119 bbls. were shipped by other mills.
(c) 20,000 bbls. have been added to other adjustment in August and September.
(d) 2,113 bbls. have been deducted for their own use.
(e) Includes 140,223 1/2 bbls. shipped for another mill, and in addition 21,334 1/2 bbls. were shipped by another mill.
(f) Includes 165 bbls. shipped for another company, and in addition, 16,799 1/2 bbls. were shipped by another company.

(g) In addition, 6,941 1/2 bbls. were shipped by another company.
(h) 1,540 bbls. used at their mill have been deducted.
(i) Includes 29,230 bbls. shipped for other mills.
(j) Includes 2,009 bbls. shipped for another mill.
(k) In addition, 30,851 bbls. were shipped by other mills.
(l) In addition, 3,465 bbls. were shipped by other mills.
(m) In addition, 18,040 bbls. were shipped by other mills.

ALL AMOUNTS ARE SHOWN IN THOUSANDS

697

Form 12

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF NOVEMBER, 1920

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 11 mos. 1919	First 11 mos. 1920	% Change	Nov. 1919	Nov. 1920	% Change	First 11 mos. 1919	First 11 mos. 1920	% Change	Nov. 1919	Nov. 1920	% Change	First 11 mos. 1919	First 11 mos. 1920	% Change	Nov. 1919	Nov. 1920	% Change	CLINKER			CEMENT				
																				Oct. 31 1920	Nov. 30 1919	Nov. 30 1920	% Change	Oct. 31 1920	Nov. 30 1919	Nov. 30 1920	% Change
Allentown	580	537	-7	53	58	+9	501	540	+9	54	58	+7	628	11528	-16	62	1157	-8	7	5	7	+40	16	22	17	-23
Alpha	2443	3295	+35	302	349	+16	2470	3434	+39	301	390	+30	2590	3624	+40	246	277	+13	96	253	55	-78	55	362	168	-54
Alsen																										
Atlas	5825	6651	+14	664	680	+2	5826	6651	+14	664	680	+2	6184	6712	+9	641	651	+2	0	0	0	0	177	359	206	-43
Bath	696	733	+5	80	84	+5	775	754	-3	95	92	-3	810	757	-7	84	62	-26	8	2	0	-	2	56	32	-43
Cayuga	293	441	+51	27	40	+48	283	457	+61	24	40	+67	321	480	+50	23	43	+87	25	39	28	-41	14	33	10	-70
Coplay	828	1036	+25	94	132	+40	927	1041	+12	92	133	+45	944	1041	+10	104	121	+16	2	19	0	-	19	49	131	-37
Dexter	776	662	-15	59	72	+22	796	661	-17	62	77	+24	1116	1156	-20	115	72	+11	20	13	14	+8	5	6	10	+67
Edison	1353	1490	+3	50	156	+212	1365	1497	+3	45	151	+236	1414	1361	-4	153	114	-25	25	25	30	+20	70	134	1105	-22
Giant L. V.	793	1021	+30	95	126	+33	783	1020	+30	95	125	+32	808	1001	+24	88	93	+6	1	1	2	+100	13	39	46	+53
Giant Norfolk																										
Glens Falls	514	218	-58	46	22	-52	508	196	-61	46	16	-65	474	379	-20	32	20	-39	37	14	44	+214	10	176	6	-97
Heiderberg																										
Hercules	524	538	+3	53	67	+26	547	495	-10	56	51	-12	541	497	-8	62	35	-44	34	5	51	+920	9	17	24	+41
Knickerbocker	706	804	+14	83	104	+25	723	839	+16	86	113	+31	732	927	+26	70	88	+26	61	66	55	-17	24	115	49	-57
Lawrence	1056	1269	+20	130	146	+12	1127	1323	+17	154	157	+2	1141	1407	+23	140	158	+13	11	11	5	-55	11	74	10	-86
Lehigh	2929	3359	+15	350	335	-4	3145	3597	+14	328	378	+15	3445	3744	+9	368	288	-22	44	21	10	-52	176	360	265	-26
Nazareth	846	871	+3	63	108	+71	873	891	+2	65	118	+82	727	1108	+46	71	130	+83	25	24	15	-38	66	257	54	-79
Penn-Allen	568	591	+4	58	60	+3	568	591	+4	58	60	+3	606	579	-4	74	55	-26	0	0	0	0	15	27	20	-26
Pennsylvania	1083	1039	-4	91	112	+23	1034	1064	+3	106	112	+6	1018	1108	+7	108	109	+6	0	45	0	-	11	24	13	-46
Phoenix	121	600	+396	35	57	+63	122	615	+404	42	69	+64	1104	1107	+24	117	61	+30	42	22	32	+46	16	20	24	+20
Security	637	717	+13	67	61	-9	672	722	+7	69	73	+6	678	715	+5	65	44	-32	32	14	22	+57	25	49	53	+8
Virginia																										
Vulcanite	901	1115	+24	124	138	+11	909	1125	+24	124	139	+12	924	1136	+22	106	124	+17	2	3	4	+33	23	59	37	-37
Total . . .	25462	26897	+15	2524	2907	+15	24044	27423	+14	2628	3032	+15	24924	28279	+13	2606	2692	0	465	582	389	-37	757	2229	1180	-47

(a) In addition, 48,815 bbls. were shipped by other mills.
 (b) In addition, 977 bbls. were shipped by other mills.
 (c) 471 bbls. have been deducted for their own use.
 (d) Includes 140,582 1/2 bbls. shipped for another mill, and in addition, 51,642 1/2 bbls. were shipped for their account by another mill.
 (e) Includes 146 bbls. shipped for another mill, and in addition, 16,759 1/2 bbls. were shipped for their account by another mill.

(f) In addition, 1,899 bbls. were shipped for their account by another mill.
 (g) 2,120 bbls. used at their mill have been deducted.
 (h) Includes 39,230 bbls. shipped for other mills.
 (i) Includes 2,096 bbls. shipped for another mill.
 (j) In addition, 206,002 bbls. were shipped by other mills.
 (k) In addition, 3,030 bbls. were shipped by other mills.
 (l) In addition, 5,141 bbls. were shipped by other mills.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

698

Page 11

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF DECEMBER, 1920

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 12 mos. 1919	First 12 mos. 1920	% Change	Dec. 1919	Dec. 1920	% Change	First 12 mos. 1919	First 12 mos. 1920	% Change	Dec. 1919	Dec. 1920	% Change	First 12 mos. 1919	First 12 mos. 1920	% Change	Dec. 1919	Dec. 1920	% Change	Nov. 30 1920	CLINKER			CEMENT			
	Dec. 31 1919	Dec. 31 1920	% Change	Nov. 30 1920	Dec. 31 1919	Dec. 31 1920	% Change	Nov. 30 1920	Dec. 31 1919	Dec. 31 1920	% Change	Nov. 30 1920	Dec. 31 1919	Dec. 31 1920	% Change	Nov. 30 1920	Dec. 31 1919	Dec. 31 1920	% Change	Nov. 30 1920	Dec. 31 1919	Dec. 31 1920	% Change			
Allentown	595	578	-3	15	38	+153	607	574	-5	16	37	+131	651	(*)543	-17	22	15	-32	7	4	8	-100	17	8	39	+388
Alpha	2578	3664	+38	134	269	+101	2663	3696	+38	193	252	+31	2786	3684	+32	196	60	-69	55	194	74	-62	168	358	360	0
Alston																										
Atlas	6266	7312	+17	441	662	+50	6267	7312	+17	441	662	+50	6716	6928	+3	532	216	-59	0	0	0	0	206	267	652	+144
Bath	745	807	+8	49	74	+51	806	828	+3	31	74	+139	862	772	-10	52	15	-71	0	20	0	-	32	35	91	+160
Cayuga	316	485	+53	22	44	+100	306	501	+64	22	44	+100	340	503	+48	18	23	+28	23	39	23	-41	10	38	28	-26
Coplay	895	1111	+24	47	76	+62	990	1120	+13	62	(*)78	+26	1037	1095	+6	94	54	-43	0	5	0	-	31	17	55	+223
Dexter	818	730	-11	41	68	+66	838	715	-15	41	54	+32	(*)866	(*)691	-20	(*)50	36	-28	14	13	28	+115	10	5	29	+480
Edison	1898	1488	+6	45	88	+96	1409	(*)1500	+6	44	103	+134	1507	1378	-9	92	29	-68	30	28	15	-46	105	65	(*)177	+172
Giant L. V.	848	1080	+27	65	59	-9	848	1083	+28	65	61	-6	878	1034	+18	70	33	-53	2	1	0	-	46	26	74	+185
Giant Norfolk																										
Glens Falls	557	244	-56	43	26	-40	544	234	-57	36	38	+6	497	387	-22	22	8	-64	44	22	32	+45	6	190	36	-81
Heidelberg																										
Hercules	578	587	+2	53	49	-8	598	535	-11	51	40	-22	583	518	-11	42	21	-50	51	7	59	+743	24	26	42	+62
Knickerbocker	771	906	+18	66	102	+55	791	949	+20	68	110	+62	797	967	+21	44	40	-9	55	66	50	-24	49	138	119	-14
Lawrence	1175	1404	+19	119	136	+14	1249	1465	+17	122	142	+16	1243	1472	+18	102	66	-35	5	13	4	-69	10	94	86	-9
Lehigh	3275	3522	+8	346	163	-53	3499	3782	+8	354	184	-48	3748	3825	+2	305	81	-73	10	25	6	-76	265	412	368	-11
Nazareth	887	936	+6	41	65	+59	923	948	+3	49	57	+16	812	(*)1087	+34	85	29	-66	15	17	24	+41	54	222	83	-63
Penn-Allen	594	620	+4	25	29	+16	594	620	+4	25	29	+16	649	596	-8	44	17	-61	0	0	0	0	20	9	33	+267
Pennsylvania	1168	1134	-3	85	95	+12	1139	1159	+2	105	95	-10	1109	(*)1165	+5	91	101	+11	0	25	0	-	13	37	8	-78
Phoenix	123	696	+417	2	36	+1700	128	649	+407	6	34	+407	(*)118	(*)623	+428	(*)14	16	+14	82	18	35	+94	24	11	42	+282
Security	647	745	+15	12	28	+133	697	772	+11	24	50	+108	708	729	+3	30	14	-53	22	2	2	0	53	44	89	+102
Virginia																										
Vulcanite	966	1196	+24	65	81	+25	975	1218	+24	66	87	+32	1005	1170	+16	82	40	-51	4	4	3	-25	37	44	85	+98
Total . . .	25200	29084	+15	1716	2188	+28	25871	29645	+15	1821	2231	+23	26912	29167	+8	1985	914	-54	369	503	363	-28	1180	2046	2496	+22

(a) In addition, 50,338 bbls. were shipped for their account by other mills.
 (b) 2,000 bbls. have been added to take care of adjustment.
 (c) In addition, 34,978 1/2 bbls. were shipped by other mills, and included are 140,262 1/2 bbls. shipped for other mills.
 (d) In addition, 14,799 1/2 bbls. were shipped by other mills and included are 145 bbls. shipped for another mill.
 (e) In addition, 7,333 bbls. were shipped by other mills.

(f) These figures adjusted to the correct figures on their books.
 (g) 750 bbls. used at their plant have been deducted.
 (h) Includes 32,330 bbls. shipped for other mills.
 (i) Includes 2,083 bbls. shipped for another mill.
 (j) In addition, 214,800 bbls. were shipped by other mills.
 (k) In addition, 2,638 bbls. were shipped by other mills.
 (l) In addition, 5,375 bbls. were shipped by other mills.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF JANUARY, 1921

MANUFACTURERS	TOTAL PRODUCTION CLINKER			CEMENT GROUND			SHIPMENTS			STOCK ON HAND							
	Jan. 1920	Jan. 1921	% Change	Jan. 1920	Jan. 1921	% Change	Jan. 1920	Jan. 1921	% Change	CLINKER				CEMENT			
										Dec. 31 1920	Jan. 31 1920	Jan. 31 1921	% Change	Dec. 31 1920	Jan. 31 1920	Jan. 31 1921	% Change
Allentown	23	0	—	23	0	—	(a) 6	19	+217	8	4	8	+100	39	25	20	—20
Alpha	264	72	—73	188	65	—65	143	43	—70	74	270	80	—70	360	403	381	—5
Atlas	634	223	—65	634	223	—65	406	185	—67	0	0	0	0	652	495	739	+49
Bath	70	70	0	53	32	—40	20	10	—50	0	38	38	0	91	68	113	+66
Cayuga	26	40	+54	26	44	+69	13	9	—31	23	39	19	—51	28	51	61	+20
Coplay	59	84	+42	60	84	+40	42	25	—40	0	4	0	—	55	34	(b) 113	+232
Dexter	55	49	—11	56	32	—43	(c) 26	20	—23	28	12	45	+275	29	36	41	+14
Edison	141	0	—	141	0	—	50	22	—56	15	28	15	—46	177	156	(d) 149	—4
Giant	62	8	—87	62	8	—87	48	32	—33	0	1	0	—	74	40	49	+23
Glens Falls	8	41	+413	7	45	+543	11	10	—9	(e) 12	23	7	—70	(f) 50	185	86	—54
Hercules	40	0	—	44	0	—	31	6	—81	59	3	59	+1867	42	39	36	—8
Knickerbocker	58	115	+98	60	124	+107	24	12	—50	50	66	45	—32	119	174	232	+33
Lawrence	89	106	+19	90	60	—33	53	39	—26	4	15	51	+240	86	131	108	—18
Lehigh	340	0	—	333	(g) 1	—	250	90	—64	6	45	6	—87	368	495	279	—44
Nazareth	41	77	+88	23	60	+161	(h) 57	26	—54	24	35	43	+23	83	188	116	—38
Penn-Allen	50	40	—20	50	40	—20	18	16	—11	0	0	0	0	33	40	57	+43
Pennsylvania	90	100	+11	105	100	—5	38	60	+58	0	10	0	—	8	104	48	—54
Phoenix	46	23	—50	43	31	—28	(i) 11	11	0	35	27	28	+4	42	45	63	+40
Security	32	0	—	15	0	—	22	16	—27	2	20	2	—90	89	36	73	+103
Vulcanite	76	0	—	76	0	—	40	31	—23	3	2	3	+50	(j) 81	80	(k) 52	—35
Total . . .	2264	1048	—52	2089	949	—55	1309	632	—52	343	642	449	—30	2506	2825	2816	0

(a) In addition, 26,907 bbls. were shipped for their account by other mills.
 (b) 342 bbls. for their own use have been deducted.
 (c) In addition, 4,816 bbls. were shipped for their account by other mills.
 (d) 750 bbls. used at their mill and 5,549 bbls. to take care of an adjustment have been deducted.
 (e) Difference in figures reported for December, 1920, due to adjustments of inventories.

(f) 906 bbls. reclaimed.
 (g) Includes 21,772 bbls. shipped for account of other mills.
 (h) In addition, 2,322 bbls. were shipped for their account by other mills.
 (i) Cement ground for December, 1920, reported as 87, was an error and should have been 81. Correction shown in stock on hand.
 (j) Includes 1,658 bbls. excess in emptying bins.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.
 FOR PREVIOUS MONTHS AND YEARS SEE TABLES
 1 TO 3 AND CHART 1 OF 1920 ANNUAL REPORT.

700

Page 11

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION
LEHIGH VALLEY, NEW YORK STATE, MARYLAND AND VIRGINIA MILLS
STATISTICS MONTH OF FEBRUARY, 1921

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND				CEMENT			
	First 2 mos. 1920	First 2 mos. 1921	% Change	Feb. 1920	Feb. 1921	% Change	First 2 mos. 1920	First 2 mos. 1921	% Change	Feb. 1920	Feb. 1921	% Change	First 2 mos. 1920	First 2 mos. 1921	% Change	Feb. 1920	Feb. 1921	% Change	Jan. 31 1921	Feb. 28 1920	Feb. 28 1921	% Change	Jan. 31 1921	Feb. 28 1920	Feb. 28 1921	% Change
Allentown	62	30	-52	39	30	-23	59	27	-54	37	27	-27	(a)14	34	+143	(b)9	14	+56	8	6	11	+83	20	53	32	-40
Alpha	514	190	-63	250	118	-53	414	158	-62	226	93	-59	261	102	-61	118	59	-50	80	295	105	-64	281	511	415	-19
Atlas	1136	329	-71	502	106	-79	1136	329	-71	503	106	-79	582	319	-45	175	184	+5	0	0	0	0	739	822	661	-20
Bath	112	131	+17	41	61	+49	58	57	-2	5	25	+400	25	32	+28	5	22	+340	38	74	74	0	113	67	116	+73
Cayuga	61	56	-8	35	16	-54	49	60	+22	23	16	-30	23	22	-4	10	12	+20	19	51	19	-63	61	64	65	+2
Coplay	127	189	+49	68	105	+54	128	184	+44	68	100	+47	77	56	-27	35	31	-11	0	4	5	+25	113	66	182	+176
Dexter	94	106	+13	39	57	+46	86	61	-29	29	29	0	(c)39	51	+31	(d)13	30	+131	45	22	73	+232	41	52	40	-23
Edison	229	0	-	88	0	-	230	0	-	89	0	-	83	53	-36	33	32	-3	15	26	15	-42	149	213	(e)117	-45
Giant	112	44	-61	50	36	-28	112	44	-61	50	36	-28	84	71	-15	36	39	+8	0	1	0	-	49	54	46	-15
Glens Falls	8	88	+1000	0	47	+	7	91	+1200	0	46	+	18	20	+11	7	10	+43	7	23	8	-45	86	178	122	-31
Hercules	69	0	-	29	0	-	61	0	-	16	0	-	47	15	-68	16	9	-44	59	16	59	+269	36	39	28	-23
Knickerbocker	79	117	+48	21	1	-95	82	126	+54	22	2	-91	34	24	-29	10	12	+20	45	66	44	-33	232	186	221	+19
Lawrence	153	221	+44	64	115	+80	129	174	+35	40	114	+185	84	88	+5	32	49	+53	51	41	56	+37	108	139	172	+24
Lehigh	585	80	-86	245	80	-67	599	130	-78	266	129	-52	386	188	-51	136	98	-28	6	32	16	-50	279	625	310	-50
Nazareth	99	187	+89	58	110	+90	72	186	+158	49	126	+157	(f)78	53	-32	(g)22	26	+18	43	45	29	-36	116	216	216	0
Penn-Allen	74	94	+27	24	54	+125	74	94	+27	24	54	+125	25	34	+36	7	19	+171	0	0	0	0	57	57	93	+63
Pennsylvania	135	195	+44	45	95	+111	145	195	+34	40	95	+138	57	111	+95	19	52	+174	0	15	0	-	48	125	91	-27
Phoenix	78	23	-71	32	0	-	74	31	-58	31	0	-	(h)20	27	+35	(i)9	17	+89	28	28	28	0	63	68	46	-32
Security	63	20	-68	31	20	-35	46	0	-	31	0	-	51	42	-18	29	27	-7	2	21	22	+5	73	38	46	+21
Vulcanite	161	0	-	85	0	-	160	0	-	84	0	-	61	61	0	22	30	+36	3	2	3	+50	52	143	21	-85
Total . . .	3951	2100	-47	1746	1051	-40	3721	1947	-48	1633	998	-39	2019	1403	-32	743	772	+4	449	768	567	-26	2816	3716	3040	-18

(a) In addition 31,741 bbls. were shipped by other mills.
(b) In addition 4,784 bbls. were shipped by other mills.
(c) In addition 6,999 bbls. were shipped by another mill.
(d) In addition 2,153 bbls. were shipped by another mill.
(e) 600 bbls. used at their mill have been deducted.

(f) Includes 28,710 bbls. shipped for other mills.
(g) Includes 6,927 bbls. shipped for other mills.
(h) In addition 3,688 bbls. were shipped by other mills.
(i) In addition 145 bbls. were shipped by another mill.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.
FOR PREVIOUS MONTHS AND YEARS SEE TABLES
1 TO 3 AND CHART 1 OF 1920 ANNUAL REPORT.

701

Form 11

CEMENT MANUFACTURERS' PROTECTIVE ASSOCIATION

STATISTICS MONTH OF MARCH, 1921

MANUFACTURERS	TOTAL PRODUCTION CLINKER						CEMENT GROUND						SHIPMENTS						STOCK ON HAND							
	First 3 mos. 1920	First 3 mos. 1921	% Change	March 1920	March 1921	% Change	First 3 mos. 1920	First 3 mos. 1921	% Change	March 1920	March 1921	% Change	First 3 mos. 1920	First 3 mos. 1921	% Change	March 1920	March 1921	% Change	Feb. 28 1921	March 31 1920	March 31 1921	% Change	Feb. 28 1921	March 31 1920	March 31 1921	% Change
Allentown	105	100	-5	43	71	+65	99	97	-2	40	70	+75	(a) 51	66	+29	(b) 37	32	-14	11	10	11	+10	32	56	70	+25
Alpha	773	412	-47	259	222	-14	630	351	-44	216	194	-10	479	274	-43	217	172	-21	105	338	134	-60	415	510	437	-14
Atlas	1771	608	-66	635	280	-56	1771	608	-66	635	280	-56	976	648	-34	395	329	-17	0	0	0	0	661	1062	612	-42
Bath	163	166	+2	51	35	-31	85	77	-9	27	19	-30	61	84	+38	36	51	+42	74	99	89	-10	116	58	84	+45
Cayuga	92	70	-24	31	14	-55	70	60	-14	21	0	-	48	36	-25	25	15	-40	19	61	33	-46	65	60	49	-18
Coplay	186	300	+61	59	111	+88	187	305	+63	59	121	+195	151	129	-15	74	72	-3	5	4	5	+25	182	52	230	+342
Dexter	135	168	+24	40	62	+55	107	133	+24	21	72	+243	(c) 81	(d) 117	+44	(e) 43	(f) 66	+53	73	41	63	+54	40	30	45	+50
Edison	312	87	-72	83	87	+5	299	78	-74	89	78	+13	172	129	-25	90	75	-17	15	40	24	-40	117	191	(g) 119	-38
Giant	171	102	-40	59	58	-2	170	101	-41	58	58	0	152	142	-7	68	71	+4	0	2	0	-	46	44	32	-25
Glens Falls	12	140	+1067	4	52	+1200	8	136	+1600	1	44	+4300	31	47	+52	13	27	+108	8	26	16	-38	122	166	139	-16
Hercules	95	0	-	26	0	-	84	40	-52	23	40	+74	92	51	-45	44	37	-16	59	19	19	0	23	18	31	+72
Knickerbocker	139	178	+28	59	61	+3	143	189	+32	61	63	+3	56	85	+52	22	61	+177	44	66	44	-33	221	225	223	-1
Lawrence	239	356	+49	86	135	+57	205	248	+21	76	74	-3	146	188	+29	62	100	+61	56	53	120	+126	172	153	147	-4
Lehigh	867	419	-52	281	340	+21	893	488	-45	294	358	+22	669	444	-34	284	257	-10	13	29	14	-52	310	636	411	-35
Nazareth	172	310	+80	73	123	+68	150	291	+96	77	108	+40	(h) 135	164	+23	(i) 56	51	-9	29	43	46	+7	216	237	272	+15
Penn-Allen	127	156	+23	53	62	+17	127	156	+23	53	62	+17	54	80	+48	29	46	+59	0	0	0	0	93	82	109	+33
Pennsylvania	212	301	+42	77	106	+38	232	301	+30	87	106	+22	(j) 121	211	+74	(k) 64	109	+56	0	5	0	-	91	148	97	-34
Phoenix	123	44	-64	45	21	-53	116	44	-62	41	13	-68	(l) 49	61	+24	29	34	+17	28	32	37	+16	46	80	25	-69
Security	125	84	-33	62	64	+3	108	68	-37	63	68	+8	111	94	-15	69	52	-13	22	23	21	-9	46	41	63	+54
Vulcanite	203	90	-56	42	90	+114	202	90	-55	41	90	+120	126	142	+13	65	81	+25	3	3	5	+67	21	119	31	-74
Total . . .	6022	4091	-32	2068	1994	-4	5686	3864	-32	1963	1918	-2	3761	3132	-17	1713	1729	+1	567	891	681	-24	3040	3968	3227	-19

(a) In addition 32,261 bbls. were shipped by other mills.
 (b) In addition 520 bbls. were shipped by another mill.
 (c) Includes 165 bbls. shipped for another mill and in addition, 8,774½ bbls. were shipped by another mill.
 (d) Includes 750 bbls. shipped for another mill.
 (e) Includes 165 bbls. shipped for another mill and in addition 1,805½ bbls. were shipped by another mill.

(f) Includes 750 bbls. shipped for another mill.
 (g) 750 bbls. used at their mill have been deducted.
 (h) Includes 25,230 bbls. shipped for other mills.
 (i) Includes 520 bbls. shipped for another mill.
 (j) Includes 2,095 bbls. shipped for another mill.
 (k) In addition 3,668 bbls. were shipped for them by other mills.

ALL AMOUNTS ARE SHOWN IN THOUSANDS.
 FOR PREVIOUS MONTHS AND YEARS SEE TABLES
 1 TO 3 AND CHART 1 OF 1920 ANNUAL REPORT.

[fol. 702]

GOVT. EX. NO. 57

Form 24

CEMENT MANUFACTURERS PROTECTIVE ASSOCIATION

19 West 44th Street, New York City

— Co.

Total Shipments

February 1st to February 15th, 1920..... bbls.
 February 1st to February 15th, 1921..... bbls.

[fol. 702½]

GOVT. EX. NO. 58

Form 14

Cement Manufacturers Protective Association

Shipments December 1st, 1920, to December 15th, 1920

Company	1919	1920	Change, per cent
Allentown	18,624	9,719	—48
Alpha	112,327	29,843	—73
Atlas	306,006	125,828	—59
Bath	32,536	9,307	—71
Cayuga	8,422	13,419	+59
Coplay	46,612	22,832	—51
Dexter	22,449	20,529	—9
Edison	35,259	10,748	—70
Giant	44,366	19,204	—57
Glens Falls	12,491	1,938	—84
Hercules	21,374	11,058	—48
Knickerbocker	16,853	24,857	+47
Lawrence	63,739	37,138	—42
Lehigh	178,683	43,000	—76
Nazareth	40,644	15,122	—63
Penn Allen	27,812	10,142	—64
Pennsylvania	57,492	61,099	+6
Phoenix	11,149	8,863	—20
Security	18,445	7,611	—59
Vulcanite	56,321	19,262	—66
Total	1,131,604	501,519	—56

(Here follow Government's Exhibits 59 and 60, marked side folio
 pages 703 and 704.)

[fol. 705]

Govt. Ex. No. 61

Form 16

Cement Manufacturers Protective Association

Summary of Past Due Accounts Reported by Members as of February 1st, 1921

	Company	4 mos. or more old	3 mos. old	2 mos. old	T. A.	Notes	Renewals	Total	I. H. A.
0	11544	1882	8479	.....	4132 (3 )	.....	26037	17045
1	3105	3231	3176	.....	4000 (1 )	.....	13512	.....
2	2706	20960	19098	.....	5457 (2 )	.....	48221	4639
3	18429	11757	7065	.....	.....	.....	37251	.....
4	155	1348	775	.....	.....	.....	2278	.....
5	928	6837	17061	.....	.....	.....	24826	7967
6	2048	12388	10648	2439 (2)	7376 (6 )	.....	34899	1261
8	3825	21498	26343	.....	6284 (5)	1200 (1)	59150	2933
9	1976	.....	9580	.....	.....	.....	11556	.....
11	11353	6914	12326	.....	21827 (19)	2729 (4)	55149	1158
12	2422	10953	7636	.....	19021 (5)	9000 (5)	49032	226
15	3432	8334	16000	.....	46026 (10)	15810 (5)	89602	.....
16	2538	5025	16338	.....	.....	.....	23901	4419
17	1893	3923	4209	3786 (7)	1011 (1)	900 (3)	15722	.....
18	68759	31650	45168	10303 (6)	13178 (7)	8270 (9)	177328	292
19	845	1663	22459	.....	6810 (5 )	.....	31777	.....
20	3433	39170	90366	.....	13151 (11)	800 (2)	146920	.....
21	2259	1112	10341	.....	16982 (5)	1800 (1)	32494	.....
22	5654	9599	22599	.....	2531 (3 )	.....	40383	499
25	2784	5164	1261	.....	8155 (1 )	.....	17364	.....
Total	150088	203408	350928	16528	175941	40509	937402	40439
		16.0%	21.7%	37.4%	1.8%	18.8%	4.3%	100%	.....

Previous 199838 289089 357067 35338 187883 48419 1117634 58523
 Year Totals 17.9% 25.9% 31.9% 3.2% 16.8% 4.3% 100%

[fol. 706]

Govt. Ex. No. 62

Form 17

Cement Manufacturers Protective Association

Comparative Statement of Summaries of Past Due Accounts for the Past Twelve Months

	4 mos. or more old	3 mos. old	2 mos. old	T. A.	Notes	Renewals	Total	I. H. A.
February 1st, 1921....	150088	203408	350928	16528	175941	40509	937402	40439
" " " % of whole	16.0%	21.7%	37.4%	1.8%	18.8%	4.3%	100%	....
January 1st, 1921....	134249	121239	452331	17340	213053	34499	972711	31961
December 1st, 1920...	148470	96603	254502	21663	210428	32799	764465	44652
November 1st, 1920...	123071	83734	207912	21567	204290	50727	691301	49192
October 1st, 1920....	119607	148411	215785	23552	179821	29834	717010	65262
September 1st, 1920...	120082	44035	170052	18070	174536	38664	565439	65443
August 1st, 1920....	135052	40431	141567	23684	134922	46508	522164	62260
July 1st, 1920.....	165436	23573	120264	29663	159529	84305	582770	66227
June 1st, 1920.....	180463	20291	88361	24944	164178	57008	535245	61901
May 1st, 1920.....	245051	45240	54893	25833	132605	68959	572581	73264
April 1st, 1920.....	290967	98986	122531	19057	160458	53094	745093	60045
March 1st, 1920.....	264412	205060	267384	28243	189158	59999	1014256	63390
February 1st, 1920....	199838	289089	357067	35338	187883	48419	1117634	58523
" " " % of whole	17.9%	25.9%	31.9%	3.2%	16.8%	4.3%	100%	....
February 14th, 1921.								

Form 18

Accounts Placed with Attorneys During January, 1921

Carter Corporation, Crozet, Va.	Co. 8—	\$2,220.65
Melon, E. Francis, Wilkes Barre, Pa.	Co. 18—	601.44
Reimert, C. S. Lansford, Pa.	Co. 18—	243.52
*Slavin, Thomas F., Cohoes, N. Y.	Co. 8—	1,559.09
Wombacker & Webster Constr. Co., Scranton, Pa.	Co. 18—	364.94

Accounts Previously Reported and Paid During January, 1921

Warrenton Supply Co., Warrenton, Va. Co. 8—Pd. in full.
February 14th, 1921.

Cement Manufacturers' Protective Association

19 West 44th Street, New York

No. —. Date: — —, —.

Our records show that the name of — — appeared upon our monthly reports of delinquent accounts as follows:

Date of report	1917	1918	1919	1920	1921	1922	1923
Jan. 1.
Feb. 1.
Mar. 1.
Apr. 1.
May 1.
June 1.
July 1.
Aug. 1.
Sept. 1.
Oct. 1.
Nov. 1.
Dec. 1.

The number of the member Company is filled in above as an index to the monthly reports showing delinquent accounts.

FORM 28

CEMENT MANUFACTURERS PROTECTIVE ASSOCIATION

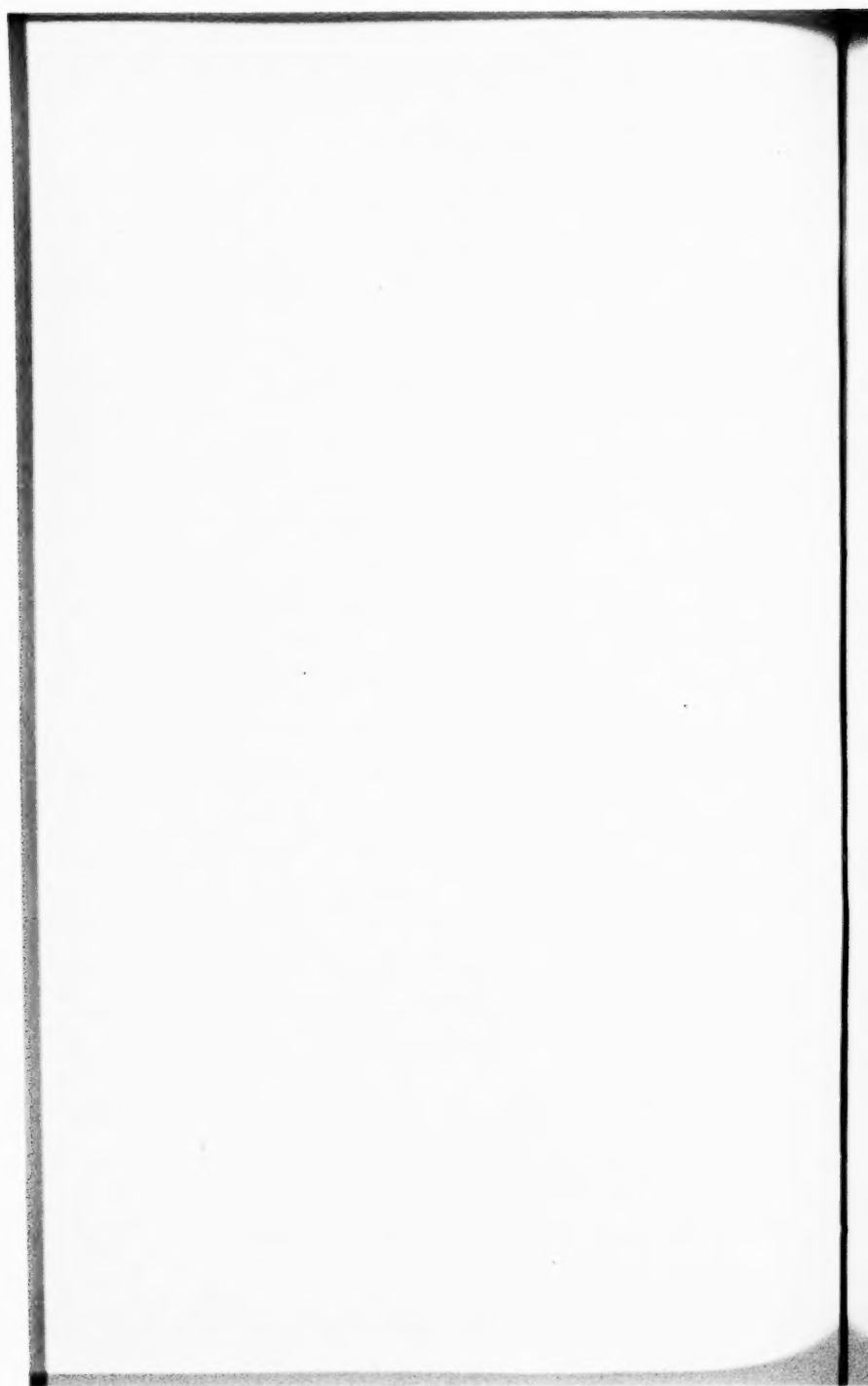
SHEET 1

ANALYSIS OF CONTRACTS SHOWING COMMITMENTS & SHIPMENTS ON VARIOUS CLASSES OF CONSTRUCTION BY STATES.

COMPILED FROM ASSOCIATION'S REPORT ON CONTRACTS AS OF DECEMBER 1st, 1920.

STATE	STATE & MUNIC. WORK			BRIDGES			CONCRETE ROADS			DAMS & WATER POWER		
	ORIGINAL CONTRACT AMOUNT	TOTAL SHIPPED TODATE	UN-SHIPPED BALANCE	ORIGINAL CONTRACT AMOUNT	TOTAL SHIPPED TODATE	UN-SHIPPED BALANCE	ORIGINAL CONTRACT AMOUNT	TOTAL SHIPPED TODATE	UN-SHIPPED BALANCE	ORIGINAL CONTRACT AMOUNT	TOTAL SHIPPED TODATE	UN-SHIPPED BALANCE
MAINE	1000	635	365	20000	8459	11541	....	....	....	2500	2426	74
N. H. & VT.	8473	693	7780	....	....	....	....	....	....	14672	2555	12117
MASS.	41750	19628	22122	108200	10086	98114	64000	23960	40040	3000	1270	1730
R. I.	....	....	....	....	....	....	4500	....	4500	....	....	....
CONN.	17750	6656	11094	15000	8628	6372	189200	54096	135104	129500	53945	75555
NEW YORK	234600	105831	128769	42150	14436	27714	395800	154097	241703	289235	42309	247026
NEW JERSEY	130301	68752	61549	7750	1711	6039	139335	65618	73717	18200	7003	11197
PENNA.	100880	21400	79480	212606	118799	93807	864729	427013	437716	42400	14942	27458
DEL.	19000	12906	6094	24600	4590	20010	48819	14648	34171	....	....	....
MARYLAND	4250	404	3846	....	....	....	22000	5837	16163	3338	....	3338
D. C.	33000	1067	31933	5000	4428	572	....	....	....	600	231	369
VIRGINIA	800	645	155	....	....	....	60000	16978	43022	21700	9868	11832
W. VA.	1200	650	550	29880	6889	22991	249500	76573	172927	1200	289	911
OHIO	30000	6914	23086	450	231	219	15600	6951	8649	....	....	....
N.C., S.C., GA. & FLA.	34468	15973	18495	3133	343	2790	155000	27668	127332	19000	7393	11607
MICH.	....	....	....	....	....	....	....	....	....	....	....	....
TOTAL	657472	262154	395318	468769	178600	290169	2208483	873439	1335044	545345	142131	403214

[The balance of this Exhibit which contains two pages, not printed by consent.]



EDISON PORTLAND CEMENT CO.

1133 BROADWAY
NEW YORK

October thirtieth
1 9 1 6

Govt Ex. No. 68

Mr. Robert E. Griffith, President,
Cement Manufacturers Protective Association,
Philadelphia, Pa.

Dear Sir:

Perusing report of contracts booked during the past week, the writer is impressed with the thought that very little careful attention has been given by most manufacturers as to the estimation of quantities required under the work to be supplied.

As in the case of all statistics, if the total report of commitments is to be of any real value, it should be as nearly correct as possible, and when the commitments reach a point of fifteen million (15,000,000) or sixteen million (16,000,000) barrels, as it would appear to be possible on the November 1st report, a twenty per cent (20%) variation is a very large item.

In addition, regardless of advanced selling prices which may be created, in view of the constantly increasing cost of manufacture; for the very reasons set forth in the articles of incorporation of our Association, the cement market will be controlled not by actual costs of manufacture, or supply and demand, but instead by the contracts which have been written in the past few days.

I, therefore, recommend that the Association immediately employ at least six persons, competent to check the cement requirements of contracts listed, and that they begin such work immediately.

If increased dues are necessary to cover such expense, I also think whatever assessments as are necessary to cover this additional expense be levied at once.

As this is a matter of far reaching influence and effect, I think you should get into it before the next monthly meeting.

Awaiting an early reply, I am,
RMS/BC Yours very truly,

Wm. R. Scott
Assistant to President

HN Scott

Giant Portland Cement Company

New York, October 31st, 1916.

Govt Ex. No. 69

Mr. Charles W. Bacon,
Commercial Trust Building,
Philadelphia, Penna.

Dear Sir:-

I enclose you herewith letter received from Mr. Harold Scott of the Edison Portland Cement Company, and I would ask you to kindly write a letter to all the Members of the Eastern Protective Association, as follows:

"I am just in receipt of letter from Mr. Harold Scott, as per the enclosed copy, and beg to state personally that I heartily concur with him in this suggestion, and I feel that it would be mutually advantageous for the Members of the Association if his suggestion is adopted, and a sufficient number of Men put on to thoroughly investigate the Contracts reported, and would ask you to kindly communicate with me at once your feeling in the matter, as to whether you approve of the plans suggested, and if so-I will endeavor to have men put on to investigate these contracts the early part of next week. I would ask you to kindly give this your immediate attention, as I do not feel that I wish to go to the expense of this investigation, without the authority of a majority of the Members, and as quick action is needed on this, I would ask you, if you have any names you would like to suggest, of men who are capable of investigating the contracts reported. If the majority of the Members are in favor of the suggestion, these expenses will be borne by the Association in proportion to shipments, and a separate account kept of same."

Will you kindly therefore, send these letters out without fail tomorrow, to all the Members, and sign my name to same.

Yours very truly,

CEMENT MANUFACTURERS PROTECTIVE ASSOCIATION,

R. E. Griffith
PRESIDENT.

R. E. Griffith

Enc.

KNICKERBOCKER PORTLAND CEMENT COMPANY

November 2nd, 1916.

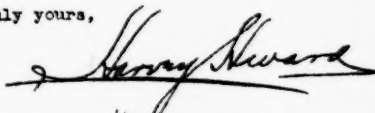
Mr. R. E. Griffith,
603-610 Pennsylvania Bldg.,
Philadelphia, Pa.

Govt Ex. No. 70

Dear Mr. Griffith:-

I have your letter of November 1st, enclosing copy of communication received by you from Harold M. Scott. Any action which the majority of the members of the Association desire to take will of course be satisfactory to me, but I desire to go on record that I do not think the contemplated action is either necessary or advisable. In my opinion, each company can check and correct its contracts to better advantage than anyone else, and if they have not the inclination to do this, any checking which might be done would be valueless.

Very truly yours,



HARVEY H. WARD

HHW/EM

CAYUGA CEMENT CORPORATION

Rochester Sales Office,
821 Insurance Bldg.,
Nov. 4, 1916.

Govt Ex. No. 71

Mr. R. E. Griffith, President,
Cement Manufacturers Protective Ass'n.,
Philadelphia, Pa.

Dear Sir:-

We have your letter of the first inst. enclosing copy of Mr. Scott's letter to you in regard to placing six men on the road for the Association to check up contracts.

Our mill, as you know, is a small one and while we like to float along with the larger mills and all that they do for the good of the industry, would say frankly that we do not believe that the Association should do this checking work. In other words, if every manufacturer reports his contracts as received and if there is a question about the amount sold for any particular job, we have recourse to the Association records, and if all the reports which the different manufacturers are making are true we should not need special investigators to check our sales.

I heartily agree with Mr. Scott on what he says regarding commitments reported so far for next year, but to place six men in the field at what you might call reasonable salaries to check these different contracts would cost more than all the money we have spent so far for the Association. The larger companies have the advantage in this respect but we believe that if we reported our contracts from time to time as they happen and check carefully our estimate of requirements there would be no need of any men going out to check against our figures. It is a well known fact that our competitors check every contract that is let and are very well conversant with the amount of tonnage involved in each contract.

It certainly appeals to us that the sales managers of the various companies should know conditions well enough to know when their own salesmen were padding contracts. You know as well as we do that some of the companies have maintained a complete investigating corps outside of

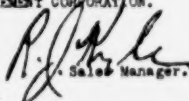
R.E.G. #2

the regular selling force for the compilation of the figures they desire to get on the different contracts reported.

I know why Mr. Scott would like to have this done after our meeting in Philadelphia on the 16th ult. but I do not agree to the Association taking any part in the employment of these men. It looks to me as though some of the manufacturers did not have confidence in some of the others and it is for this reason that we vote against the resolution.

Yours very truly,

CAYUGA CEMENT CORPORATION.


Sales Manager.

R. J. Kyle

RJK/DS

DEXTER PORTLAND CEMENT COMPANY

11-2-16

Govt Ex. No. 72

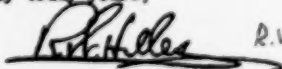
Mr. R. E. Griffith, President,
Cement Mfrs. Prot. Assn.,
219 Commercial Trust Bldg.,
Philadelphia, Pa.

Dear Sir:-

Replying to your November 1st letter and as per our vote when this matter was brought up about six months ago, we are willing to bear share of the expenses of an investigation of specific contracts filed with the Association.

The gentleman that I had in mind for investigating contracts in Eastern Pennsylvania, New York and New Jersey was Mr. William B. Bell, of Atlantic City, N. J. I think his services can be secured at a very reasonable figure because it is necessary for him to do some outdoor work for next year or so. If you want me to have him call to see you, please advise.

Very truly yours,



R. W. Heals

Manager of Sales

RWH:C

The Atlas Portland Cement Company,
30 Broad Street,
New York,

November 3, 1913.

Govt Ex. No. 73

Mr. R. E. Griffith, President,
Cement Manufacturers Protective Association,
Philadelphia, Pa.

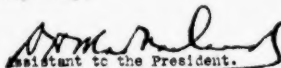
Dear Sir:

In response to your letter of the 1st inst. relative to the employment of a number of men for investigating and reporting as to the existence of work for which contracts have been taken, and also regarding contracts which may have been over estimated.

This is exactly one of the reasons for the existence of the Association, and it seems to me that it would be a wise expenditure of money on the part of the Association, the funds for which I feel should be provided for on the same basis as the sums provided for running the entire Association. If we have not enough money in the Treasury, or anticipated receipts to cover it, we should levy an assessment in the same way that we handled the last assessment.

I hope to be present at the meeting Wednesday when I presume any action you may take in the employment of men will be promptly ratified.

Yours very truly,


Assistant to the President.

DMM/MK

D. H. MacFarland

717
Govt Ex. No. 74

PHOENIX PORTLAND CEMENT COMPANY

NAZARETH, PENNA.

November 3rd, 1916.

Cement Manufacturers Protective Assn.,
932 Commercial Trust Bldg.,
Philadelphia, Pa.

Attention Mr. R. E. Griffith, Pres.

Gentlemen:-

Answering your letter of the 1st inst., we fully agree with you that the situation, as outlined by letter from Mr. H. M. Scott, is a serious one and should have immediate attention. Of course, we do not wish to incur unnecessary expense in checking these contracts, but if this additional expense for men to be hired is worked out on a proportionate basis, we should be glad to assume our proportion of such expense.

Very truly yours,

PHOENIX PORTLAND CEMENT CO.,

John L. Gilkerson
Treasurer.

ILG/W.

C - P.

John L. Gilkerson

THE LAWRENCE CEMENT COMPANY

Govt Ex. No. 75

Mr. R. E. Griffith, President,
Cement Manufacturers Protective Association,
932 Commercial Trust Building,
Philadelphia, Pa.

Dear Sir:

Your letter of the 1st instant enclosing copy of letter from Mr. Harold M. Scott, is at hand.

I thoroughly agree with Mr. Scott's views expressed relative to the investigation of recent contracts taken by the various companies.

I understand that some of the manufacturers suggest that the investigation be made by salesmen who are already employed by the various companies.

My own judgment is that it would be very much better to have this investigation made by people who are not connected with any of the companies.

I will try and attend the meeting on Wednesday.

Yours very truly,

Frank H. Smith
SALES MANAGER

Frank H. Smith

FES:N.

BATH PORTLAND CEMENT CO.

NEW YORK CITY, November 3, 1916.

Govt Ex. No. 76

Mr. R. E. Griffith, President,
Cement Mfgs. Protective Ass'n.,
Commercial Trust Bldg.,
Philadelphia, Penna.

Dear Sir:-

We are in receipt of your favor of the
1st inst. relative to the question of employing
six men to check up contracts.

We agree with the principle, but if it is
intended to furnish permanent employment to the six
men for the work in question, we think it will be
unnecessary to have such a large force.

Yours very truly,

BATH PORTLAND CEMENT COMPANY,


Vice-President.

J.P. Twanley

Coplay Cement Manufacturing Company

MANUFACTURERS OF

Saylor's Portland Cement**Widener Building****Philadelphia,****Govt Ex. No. 77****November 4, 1916.**

Mr. R. E. Griffiths, President,
Cement Manufacturers Protective Assoc.,
Phila., Pa.

Dear Sir:

Replying to your favor of the 31st ult., would say that the matter of employing some special representatives to investigate recent contracts taken, meets with my approval as I think it will be necessary that something like this be done. However, I believe every Cement Manufacturer should do all they can themselves to check up their contracts, and when it comes to a case of an argument as to whether the Company is right or whether the customer is right, then I think it would be well to have one of the special representatives investigate such contract carefully and report.

There are so many contracts filed, that I do not think it could be possible - unless we had a number of men - to investigate them all through the Association, and it is on that account that I feel the Association will have its hands full by just checking the large contracts and those in dispute.

Very truly yours,

COPLAY CEMENT MFG. COMPANY



W.G. DUTTON

WGD/H

General Sales Manager

*Pennsylvania Cement Company**New York* Nov. 4, 1916.

Govt Ex. No. 78

Mr. Robert E. Griffith, Pres.
Cement Mfr. Protective Assn.
932 Commercial Trust Bldg.
Philadelphia, Pa.

Dear Sir:-

Replying to your letter of the 1st would say that we feel that these contracts should be taken up at once for the simple reason that if statement of contracts as filed, are legitimate, it means that there will be a big shortage of cement for next year, and we should know that without delay.

The writer expects to be in Philadelphia without fail next Wednesday.

Yours very truly,

PENNSYLVANIA CEMENT COMPANY

Wm. S. Beach
President.
4.

WNB:Y

November seventeenth
1 9 1 8

Cement Manufacturers Protective Association,
Commercial Trust Building,
Philadelphia, Pa.

In re special contract investigation:

Dear Sirs:

Your committee have carefully considered several methods possible for the special work of investigation and verification of contracts booked, and have concluded that to attempt this work through a corps of men operating under the direction of the Association, and its appointed officers, would require a very large expenditure; also much time would be necessary in recruiting of persons for such force, and their education and instruction in the work.

Pursuant to the recommendations of the Association, we have also carefully considered the offer of the F.W. Dodge Company to perform this work.

They advise that a staff of eighty to one hundred men would be immediately dispatched on the work, and as much of the information desired is already available in their records, they can unquestionably perform this service more economically, and, probably, more efficiently than through the former method.

Although shipments on contracts now booked will not be active for several months, the item of time remains an important feature, in view of heavy bookings, increased costs, and difficulties of cement manufacture.

The inexorable law of supply and demand must govern the schedule of manufacture and sale of each company, and to intelligently forecast the demand of 1917, each manufacturer is greatly interested in knowing that the total of contracts booked represent certain definite items of construction rather than fictitious or spurious options of the trade.

Your committee, therefore, asks that it be empowered to immediately conclude a contract with the F.W. Dodge Company for a period of thirty (30) days, on basis of Two Dollars (\$2.00) per inquiry or report, the F.W. Dodge Company to supply the Secretary of this Association with the following information - The Secretary in turn to transmit such information to each member company:-

- A - Verification of purchaser
- B - Description of work
- C - Brand purchased
- D - Number of barrels required.

If the above recommendation is approved, your committee would further request that it be instructed to co-operate with the Secretary of this Association in completing the details of forms, reports, etc., in connection with this special work.

Yours very truly,

H.M. Scott, Chairman /

W.G. Dutton /

Albert Moyer /

B.L. Swett /

F.M. Coogan /

J.P. Twanley /

R.W. Hilles /

HMS/BC

[fol. 708]

Govt. Ex. No. 65

Form 26

Cement Manufacturers Protective Association

19 West 44th Street, New York, N. Y.

— Co.

Bag Returns for the Year Ending December 30th, 1920

Total bags returned

Total bags rejected

.....

.....

[fol. 708½]

Govt. Ex. No. 66

Form 19

Cement Manufacturers Protective Association

Bag Returns for the Year Ending December 31st, 1920

Company	Total bags returned	Total bags rejected	Per cent rejected	% rejected yr. ending 1919
Allentown	2,334,506	65,584	2.81%	2.60%
Alpha	10,909,979	109,329	1.00%	1.01%
Atlas	18,232,407	289,434	1.59%	1.82%
Bath	2,022,475	35,956	1.78%	2.20%
Coplay	3,287,649	76,588	2.33%	4.60%
Dexter	2,427,089	19,949	.82%	1.42%
Edison	4,564,298	132,642	2.91%	4.26%
Giant	3,096,349	67,904	2.19%	2.98%
Glens Falls	1,193,984	43,610	3.65%	2.33%
Hercules	1,746,847	43,127	2.47%	1.05%
Knickerbocker ...	3,168,532	23,694	.75%	.79%
Lawrence	5,146,018	136,725	2.66%	3.52%
Lehigh	10,241,343	125,127	1.22%	1.19%
Nazareth	2,840,338	49,714	1.75%	1.95%
Penn Allen	2,049,644	52,006	2.54%	1.77%
Pennsylvania	3,298,541	54,485	1.53%	2.25%
Phoenix	1,612,155	29,609	1.84%	1.44%
Security	2,776,888	32,456	1.17%	1.56%
Vulcanite	3,746,554	53,489	1.43%	2.81%
Total	84,695,596	1,437,428	1.70%	2.11%

2-18-21.

(Here follow Government's Exhibits Nos. 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, marked side folio pages 709-723, inclusive)

We vote in favor of the plan for extending the activities of the Cement Manufacturers Protective Association.

— Portland Cement Company. Nazareth Cement Co., by
J. A. Horner. G. F. W.

Endorsed: Received Jul. 30, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

We vote in favor of the plan for extending the activities of the Cement Manufacturers Protective Association.

Penn Allen Cement Company, by W. E. Erdell, Pres.

Endorsed: Received July 27, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

We vote in favor of the plan for extending the activities of the Cement Manufacturers Protective Association.

Pennsylvania Portland Cement Company, by W. N. Beach,
Pres't.

Endorsed: Received Jul. 30, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

[fol. 724½] We vote in favor of the plan for extending the activities of the Cement Manufacturers Protective Association.

Phœnix Portland Cement Company, by J. W. Walker, Prest.

We vote in favor of the plan for extending the activities of the Cement Manufacturers Protective Association.

Security Cement & Lime Co., by Loring H. Cover, President.

Endorsed: Received Jul. 30, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

We vote in favor of the plan for extending the activities of the Cement Manufacturers Protective Association.

Bath Portland Cement Company, by B. S. Stradley, Prest.

Endorsed: Received Jul. 30, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

We vote in favor of the plan for extending the activities of the Cement Manufacturers Protective Association.

Cayuga Cement Corp'n, by J. I. Maugi, V. P.

Endorsed: Received Jul. 30, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

[fol. 725] We vote in favor of the plan for extending the activities of the Cement Manufacturers Protective Association.

Atlas Portland Cement Company, by W. A. Holman, Asst.
to Prest.

7/27/17.

Endorsed: Received Jul. 30, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

We vote in favor of the plan for extending the activities of the
Cement Manufacturers Protective Association.

Alpha Portland Cement Company, by G. S. Brown, President.

Endorsed: Received Jul. 30, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

We vote in favor of the plan for extending the activities of the
Cement Manufacturers Protective Association.

Virginia Portland Cement Company, by B. L. Swett, Sales
Manager.

Endorsed: Received Jul. 30, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

[fol. 725½] We vote in favor of the plan for extending the activi-
ties of the Cement Manufacturers Protective Association.

The Allentown Portland Cement Company, by R. L. Cope,
Mgr. of Sales.

Endorsed: Received Aug. 8, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

July 27, 1917.

We vote in favor of the plan for extending the activities of the
Cement Manufacturers Protective Association.

Vulcanite Portland Cement Company, by W. D. Lober, V. P.

Endorsed: Received Jul. 30, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

We vote in favor of the plan for extending the activities of the
Cement Manufacturers Protective Association.

Coplay Portland Cement Company, by Ferdinand L. Loeb,
President.

Endorsed: Received Jul. 27, 1917. Cem't Mfg. Pro't Ass'n
per ———.

[fol. 726] We vote in favor of the plan for extending the activities
of the Cement Manufacturers Protective Association.

Dexter Portland Cement Company, by Joseph Brobston, Vice
President.

Endorsed: Received Jul. 30, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

We vote in favor of the plan for extending the activities of the
Cement Manufacturers Protective Association.

Edison Portland Cement Company, by W. L. Mallory, Presi-
dent.

July 26, 1917.

Endorsed: Received Jul. 30, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

We vote in favor of the plan for extending the activities of the
Cement Manufacturers Protective Association.

Giant Portland Cement Company, by R. E. Griffith, V. P.

Endorsed: Received Jul. 30, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

[fol. 726½] We vote in favor of the plan for extending the activi-
ties of the Cement Manufacturers Protective Association.

Hercules Cement Corporation, by Morris Kind, Pres

We vote in favor of the plan for extending the activities of the
Cement Manufacturers Protective Association.

Knickerbocker Portland Cement Company, by Sheldon Bas-
sett, Pres.

Endorsed: Received Jul. 31, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

July 30, 1917.

We vote in favor of the plan for extending the activities of the
Cement Manufacturers Protective Association.

Lawrence Portland Cement Company, By Marion S. Acker-
man, V. P.

Dear Mr. Lober,

Gladly sign the above, but do not see that it is "in accordance with
the resolution adopted July 16th."

We vote in favor of the plan for extending the activities of the
Cement Manufacturers Protective Association.

Lehigh Portland Cement Company, by B. L. Swett, Eastern
Sales Manager.

Endorsed: Received Jul. 30, 1917. Cem't Mfg. Pro't Ass'n,
per ———.

[fol. 727]

GOVT. EX. No. 81

New York, September 18, 1917.

DEAR MR. GAINES: I am attaching herewith copy of letter which
the Atlas Company sent to its various sales offices in April of this
year for their instruction and guidance in checking up specific work
contracts. In connection with this letter the salesmen were fur-
nished "Instructions for Guidance in Checking Contracts" copy of
which is also attached, and the form known as "Building Report."

This will indicate to you the thought that our Company had
in mind in investigating and checking contracts, and it is my opin-
ion that it applies to the work which you are to undertake.

Next Tuesday we will get the benefit of the individual experience of the Companies represented by the other members of the Committee, and I should like to have you bring this up at that time as a suggestion to the Committee covering some of the points which we will consider and provide for.

Yours very truly, W. A. Holman, Chairman.

Mr. H. S. Gaines, Cement Manufacturers Protective Association,
Widener Building, Philadelphia, Pa.

Enc.

[fol. 727½]

Checking Contracts

April 26, 1917.

District Managers:

We are attaching hereto a sheet bearing general instructions for the checking up of specific contracts. We want you to study this with great care, and distribute copies which we are sending you under another cover, to all of your salesmen, and especially see that the men who are going to do most of the contract checking are thoroughly well-grounded in what we are after.

In addition to this, we are sending you a sample of the sheet which we want started in each of the district offices, and completed by the salesman who checks each contract. We do not want the salesman to send in any of these reports until every question on the report has been fully and completely answered.

In all cases where an adjustment of the contract is possible on the ground—that is, where there is anything to be done in the way of cancellation or reducing quantities—we want it done on the ground after we are absolutely sure that our information is correct and we can satisfy the dealer to that effect.

You cannot impress the men checking the contracts too strongly with the importance of their work to the Company both from a monetary standpoint, and from a diplomatic standpoint; that is, from the standpoint of maintaining relations with dealers, and at the same time making adjustments on all contracts which need them, which adjustments will be absolutely fair to the — Company. If the adjustment is in accordance with the requirement of [fol. 728] the work as far as quantity goes, such adjustment will necessarily be fair to the dealer, and anything in excess of such an adjustment will be manifestly unfair to the — Company.

From time to time someone will visit the branch office, and will go over these contract reports with you in total and in detail, and in order that no second trips may be necessary on these contracts, please see that everything is cleaned up at the time of the first check.

Our suggestion is that you use Mr. — to check up these contracts in your territory.

Of course, the more important propositions should be handled by the district manager personally but the information which the district manager secures on the contract should be just as detailed.

as he requires his salesmen to secure, which is in line with the attached form.

Please bear in mind too that the attached form represents a minimum of the information required. If there is any additional authentic information from any source which throws light on the contract, please secure it and report it.

Yours truly, — — —

[fol. 728½]

Govt. Ex. No. 82

Cement Manufacturers Protective Association

932 Commercial Trust Building, Philadelphia, Penna.

Charles W. Bacon, Secretary

Office of Cement Manufacturers Protective Association, Philadelphia, Pa.

This letter sent to all the member companies and addressed to the Managers.

Oct. 5, 1917.

DEAR SIR: We are ready to make a beginning of contract investigation under Mr. Gaines' direction for the purpose of supplying member companies with accurate information regarding contracts filed, which will enable the member companies to protect themselves against the kinds of misrepresentation and deception which have been more or less common in so-called "specific job contracts" and tend to move such transactions toward a more honorable and reliable basis.

It has come to be pretty generally recognized that these transactions, while in the form of contracts, are, as a practical matter, one-sided obligations which only the manufacturer can be compelled [fol. 729] to perform; and it has become common to secure such contracts by misrepresentation, to serve as options extending over long periods, misleading the manufacturer in the adjustment of his selling and manufacturing operations and frequently occasioning great loss.

The misrepresentations commonly resorted to in these contracts are duplication, padding of contracts, and calling for shipments on expired contracts. The service of the Association will embrace the investigation of the facts, so that each manufacturer may be informed that he is being thus imposed upon and enabled to free himself from such contracts or shipments as are based on misrepresentation, by cancellation, refusing to ship or otherwise.

In providing this service the Association is simply attaining more fully the object for which it was created, namely, "the collection and dissemination of such accurate information as may serve to protect each manufacture against misrepresentation, deception and imposition and enable him to conduct his business exactly as he pleases

in every respect and particular, free from misdirection by false or insufficient information." The Association does not undertake to direct or control or influence the acts of the manufacturer. It simply provides him with accurate information, which enables him to act as he chooses. If, for instance, a manufacturer has one of these "specific job contracts" calling for, say, ten thousand barrels of cement for a particular job, this service will develop the truth concerning that job, which may be that it involves only two thousand [fol. 729½] barrels or has been completed. This information will enable the manufacturer to protect himself by cancelling the contract or declining to make further shipments. But the work of the Association stops with supplying the truth. It will consist simply in ascertaining the truth, in investigation of the facts, and the communication of them to the members.

It is understood that investigations, which we shall term Audits, will be intelligently undertaken and efficiently and diplomatically conducted resulting in reliable information for the guidance and protection of members in the proper conduct of their business, together with fair and business-like treatment of their customers, the dealer and the contractor.

We shall not undertake investigations in number and volume at the expense of thoroughness and reliability, and with this in mind our beginning must of necessity be of moderate volume, and our growth from such a beginning will be as rapid as the proper training of an organization to successfully handle such increased work as may become desirable.

Investigations of Contracts Now in Effect

When suggesting investigations of contracts previously filed and now in effect, members are requested to consider only such contracts as are not completed or nearing completion, and which if not bona fide and legitimate would be detrimental to the future interests of the manufacturer having such contract and the industry generally. [fol. 730] As our present facilities are limited, we cannot undertake a general investigation of expired or soon to expire contracts, or other than the more important contracts of reasonable size in and adjacent to large centers of population, such as Philadelphia, New York and Boston, and the co-operation of members in making the work as valuable as possible to the future will be appreciated. Upon receipt of such requests, Mr. Gaines will undertake investigations and reports to members requesting such at as early a date as possible.

Investigations of New Contracts from This Date

We do not believe an investigation of every contract filed to be either necessary or desirable. The organization required to do this would be out of all proportion to the results obtained. Each Company should carefully look over the daily report to members of contracts filed, and the monthly report of contracts in effect, and report

to the Association office any information leading such Company to believe that any contract filed is not bona fide, and in what particular which information will be used as the basis of an investigation, and report, both to the Company making the request and furnishing the information, and to the Company making and filing the contract.

If each member Company will give to other member Companies through the Association such information as it may have, we feel that investigations of contracts which are brought to our attention will correct a large percentage of abuses and misrepresentations and, [fol. 730½] at least for the present, be as much as we can undertake for proper investigation.

Attached herewith are the following forms, which will be used in connection with contract investigation and report as follows:

Form No. 1.—This form to be used by members in calling the attention of the Association to "Special Contracts" upon which they desire further information.

Form No. 2.—This form is to be used by the Auditor on the work.

Form No. 3.—This form is to be used by the Auditor on the work.

Form No. 4.—This form will be used by the Association when sending information on audited contracts to the manufacturers.

A supply of form No. 1 is being sent you for calling the attention of the Association to "Specific Contracts," upon which you may desire further information.

Yours very truly, W. D. Lober, President; F. M. Coogan, W. G. Dutton, W. E. Erdell, H. M. Scott, B. L. Swett; W. A. Holman, Chairman.

[fol. 731]

Govt. Ex. No. 83

November 10, 1917.

Mr. H. I. Norton, Bancroft Hotel, Worcester, Mass.

DEAR SIR: We are sending under separate cover, a supply of Business Cards, Expense Books, and a copy of estimates on specific contracts, which may be of some value to you in making estimates.

There are some contracts in the vicinity of Providence that should be taken care of at an early date. Also a few other towns in the vicinity of Boston, which you can clean up and then will send you the first of the week, at your Boston address, the list of the Boston contracts which we wish investigated, as we are anxious to clean up the situation in Boston, as soon as possible.

We are very much pleased with reports that you are sending us, and we want you to bear in mind that we would rather have one report a week from you and have it absolutely correct, than have one hundred reports and have one wrong.

We are always especially interested in knowing what brand of Cement is used on the job which you visit. And we also like to have

[fol. 731½] as fully as possible, the report of your conversations with the source of your information; as oft-times details that may seem of small importance to you, are of vital importance to us.

I now think that I will be in Boston the latter part of next week, and will look forward to seeing you then.

With kindest regards.

Yours very truly, — — —, Vice-Pres. HSG/E.

[fol. 732]

Govt. Ex. No. 84

November 26th, 1917.

Mr. Broomall, Mr. Oberman, Mr. Norton.

DEAR SIR: In every instance where you are not entirely satisfied that you have full and complete information you should visit the dealer or purchaser, as in many cases this is the only party who can give you specific information as to the amount of cement actually delivered upon the operation and this information we would always like to get wherever possible to do so.

However, when you find a complete contract, whether or not it shows a balance due, it is not necessary to go to the contractor or dealer for the amount and brand used, unless such information can be obtained without annoyance or waste of time. As a rule when the operation is completed, that is the only information we require.

You should be especially careful not to discuss prices with anyone, as this Association is not in any way interested in the prices charged by the various companies.

A recent case in Brooklyn where an investigation of a requirement contract did not develop full information, leads me to caution [fol. 732½] you to carefully follow up all avenues of information until you are thoroughly satisfied that you have developed the full facts in every case.

In the case in question there were five operations covered by one contract. One operation was checked and a report made, which indicated that the work was about completed, when as a matter of fact construction was under way in four other places where material was being furnished under the contract, which operations would consume the full amount of cement as specified.

In the main, your reports are coming through in good shape and we are very much pleased with the results you are securing, but I again desire to caution you that I would rather have one report correct and complete in every detail from you, as the result of a week's work, than to have you send me a hundred during the week and one report incorrect and incomplete. Your results will not be measured by quantity, but quality.

Yours very truly, — — —, Vice President. HSG/GY.

The Emerson, Baltimore, Maryland

December 13th, 1917.

MY DEAR MR. GAINES: I had quite a long talk with Mr. Clement Green over the 'phone this afternoon. I apologized for not having called on him last week, at which time he had said he would be in a position to give me the information on the balance of his contracts, and asked him when it would be convenient, for him, to have me call to get this information.

He said it was a good thing I didn't see him last week, as he might have wiped up the floor with me. I did not ask him where I would have been while that was happening; but asked him what the trouble was and he said "why! you reported to the Alpha people that those jobs were all finished," and I said, "Mr. Green, I reported on those Alpha contracts that the full amount of the contracts had been used and that your Alpha contracts were all cleaned up, which is exactly what you told me." He said I did not tell you anything of the kind. I told you, and my brother will bare me out, as he was there at the time, that when I had received the balance that had been ordered shipped on these contracts, that they would be cleaned up.

[fol. 733½] I said, no, you did not tell me that; if you had I would have reported accordingly and asked him what possible motive I would have for turning in false reports on any contracts and that this was the first time a thing of this kind had arisen, etc. and finally wound up by having him agree to have me come out to his place for the information on the balance of his contracts next Tuesday, and I was thinking if it would be policy to keep from him, until after that time, the information gathered on the 100 house operation at 12th & North. He said I had better see Mr. Kent of the Alpha Co., whom he said, was down to see him and had visited the jobs with him, and tell him that I had misunderstood him on those Alpha contracts. I made no promises.

I had lunch with Mr. Behrens today and he is trying to make appointments for me to meet the balances of the Dealers tomorrow and Saturday and if he does that will give me a chance to attack along the entire front and get cleaned up.

Very truly yours, Frank Broomall.

Received Dec. 15, 1917. Cem't Mfg. Pro't.

[fol. 734]

Govt. Ex. No. 86

The Emerson, Baltimore and Calvert Streets

Cable Address—Hoemerson

Baltimore, 12-18, 1917.

DEAR MR. GAINES: Mr. Graham of Pen-Mar Co. was to have given me the amounts delivered on their contracts the early part of this week; but when I talked to him today he said he had no additional information for me at this time. I asked him when I could expect to receive this information and he said he would get in touch with me if anything new turned up.

He has gone over each contract with me and has given me some information; but what I was after was the amount of cement delivered on each contract. This he does not seem to want to give me although he has not come right out and refused to do so. I am, therefore, going right ahead and checking their contracts along with the others and in case I get any information from him after having mailed them in, I shall report further.

[fol. 734½] I also talked to Clement Green today. He also had promised to give me the am'ts. delivered on their contracts; but he said, today, that they hadn't had the time to get this in shape for me and did not know when they would have as they were very busy just at this time, so I shall not wait on him; but will investigate his contracts along with the others.

I just received telegram instructing me to try to complete investigation of Edison contracts with Green tomorrow and will get busy on same first thing in morning; but hardly think I will be able to investigate them all tomorrow as there are twenty-three altogether. I will devote all of my time to these contracts until I have investigated them all and shall mail my reports on same direct to Seville Hotel as fast as I can check them.

Mr. Gaines I wish to thank you very kindly for my increase in salary and also want to assure you that the confidence you have placed in me is greatly appreciated.

Yours very truly, Frank Broomall.

Am enclosing to office under separate cover seven reports; but none are Green's.

[fol. 735]

Govt. Ex. No. 87

Lehigh Portland Cement Co.

Young Building

In reply please address and refer to 60882-C

Allentown, Pa., December 27, 1917.

Mr H. S. Gaines, V.-Pres. Cement Mfgs. Protective Asso., Philadelphia, Pa.

DEAR SIR: No doubt you have noticed the large number of contracts which have recently been extended for 1918 delivery. A number of these contracts have been at the present market price, while the others are considerably lower.

It occurs to me that the Association should endeavor to check up such extended contracts as early as possible. This applies particularly in the case of contracts which are extended only for the first few months of 1918, as, naturally, the check up, in order to be of any value, should be made before the cement has been delivered.

Yours truly, B. L. Swett, Eastern Sales Manager. BLS.

Received Jan. 2, 1918. Cem't Mfg. Pro't Ass'n, per ———.

[fol. 735½]

Govt. Ex. No. 88

Alpha Portland Cement Company

General Offices: Easton, Pa.

January 25, 1918.

Mr. H. S. Gaines, Vice-President Cement Manufacturers Protective Association, 916 Widener Building, Philadelphia, Pa.

Personal

DEAR SIR: I note on the reports which you have recently made to this office that you have investigated an industrial requirement contract of the Vacuum Oil Co. I want to make the suggestion for your consideration, that it is absolutely useless to attempt to investigate such a contract, in fact, if we were to attempt to investigate such contracts it would have a very bad effect on the standing of the industry, and I would like to have you take this matter up with the committee for such action as they may see fit.

Yours very truly, F. M. Coogan, H., 2nd Vice-President.
FMC-H.

[fol. 736]

Govt. Ex. No. 89

January 30th, 1918.

DEAR SIR: Responding to your letter of January 25th, relative to the investigation of industrial requirement contracts, the results secured from such investigations are in most cases very unsatisfactory, and I will be very glad indeed to bring the matter up for the consideration of the Committee at the next meeting.

Yours very truly, — — —, Vice-President. HSG:GY.

Mr. F. M. Coogan, Second Vice President Alpha Portland Cement Co. Easton, Penna.

[fol. 736½]

Govt. Ex. No. 90

January 31st, 1918.

Mr. W. G. Dutton, President; Mr. H. M. Scott; Mr. W. E. Erdell; Mr. F. M. Coogan; Mr. B. L. Swett; Mr. W. D. Lober; Mr. W. A. Holman, Chairman.

DEAR SIR: It occurred to me that you would be interested and to your advantage to know the problems with which we are from time to time confronted and I am therefore sending you a copy of my weekly letter, which is an interchange of information among our auditors

In reading this letter, it is well to bear in mind that these men know practically nothing of the history and traditions of the industry; that they are looking at it purely from the angle of an investigator of contracts and not as salesmen.

Yours very truly, H. S. Gaines, Vice-President. HSG:GY.
Encl.

[fol. 737]

January 31st, 1918.

DEAR SIR: I beg to herewith hand you the weekly letter for your information:

From Mr. Norton

"Haven't run across anything out of the ordinary in my travels about New England. Have experienced similar cases to the one Broomall speaks about. The thing the hardest to overcome here is to break through the combinations that dealers and industrial form, such as Hersey of Winslow and Co., Portland, Me.

All his customers swear by him and won't give out any word before talking with him and he puts the words right in their mouths. Mr. Hersey is a very decent fellow to meet and treats one as courteously that you are with him, as soon as you talk to him, although you feel certain he is putting something over. For instance, the Maine R. R. say that all their large work is contracted out and con-

tractor furnishes his own cement; then the first question is, what do they want of 25,000 bbls. unless to help out Hersey. Hersey says in order to keep up with the people whom you have business with, it is necessary to do business their way, and he claims to know the manufacturers as well as they do themselves.

The rumor around among the dealers here is that the mills are overstocked and that cement is very plentiful. At first, when start-[fol. 737½] ing out, the requirement contracts seemed to be the easiest to check, but now it is different, for dealers use them to cover up all their phoney dealings and I had rather investigate building operations. Most dealers are not in favor of requirement contracts, although some think them very necessary. Have found very few dealers with anything but verbal contracts, and in many cases the dealer asked the mill for more than contractor has asked for. Written contracts between dealers and users would eliminate all this, but dealers say contractors would not give them."

From Mr. Broomall

"In checking contracts, a great amount of time is spent in locating contractors, and sub-contractors, who have no offices and who are not listed in directory or telephone book and who very often live in a town or city other than the one in which the job is. Very often the dealer will furnish the auditor with the address of the contractors, but not always. In one case, I devoted an entire day trying to locate the contractor.

If the auditors could conveniently be furnished with the addresses of the contractors, it would greatly facilitate their work and many more contracts could be audited in the course of a year."

From Mr. Oberman

"In checking contracts, one finds that it is a common practice for dealers to execute a specific time contract with one of the cement companies without receiving any definite order or like contract for cement from contractor. Such purchasers who have not filed contracts with their dealers, often resent our interference, as they put it, in their business; and it also must be noted, even if the contracts under investigation are not entirely valid, that the checking of such contracts might cast some reflection upon the integrity of the dealers organizations which might not be solely at fault for, as we have been told, much of the chaos in the cement trade industry is due to the objectionable business practices fostered upon the dealers because of the lack of organization in the cement trade.

If this is found to be the case with contracts under investigation, it is best to state at the outset that we are collecting our information for the manufacturers of cement, so that they may better be able to reconstruct their business to meet war conditions. Nearly all contractors, as well as every one else, are troubled by the present economic changes and they all seem ready to discuss conditions. In

this manner, we can get our information without giving the contractors the idea that we are checking up the dealers methods of doing business.

No doubt, if every specific time contract between dealer and manufacturers had a copy of the contract executed between contractor and dealer attached thereto, the above condition would not exist.

The following extract from page ten of the pamphlet entitled "Trade Practices in the Cement Industry" will make my point clear:

If all the manufacturers insist that every specific work contract with a dealer have attached thereto an executed copy of contract between the dealer and his customer for that particular work, it will largely eliminate the abuses recited. (Diverting cement.)"

Yours very truly, H. S. Gaines, Vice President. HSG. GY.

[fol. 739]

Govt. Ex. No. 91

February 5th, 1918.

DEAR SIR: Referring to the attached report on Vulcanite contract 4729, I beg to herewith hand you copy of the auditor's daily report of February 1st and call your attention to the fact that he called on T. Shea, Inc. twice, but found the party out.

In the meantime he visited the jobs and contractors and on February 2nd had an unfortunate experience with Mr. Hayes of the Shea Company when he called.

It seems strange that all the other dealers in Springfield would treat Mr. Norton courteously and that Mr. Hayes of the Shea Company should take the attitude he does unless, of course, his contracts, as appear to be the case, are not in good shape.

It seems that these distressing incidents are bound to occur and I am very proud of the fact that our Mr. Norton conducted himself with dignity and courtesy.

Will you kindly return Mr. Norton's letter and report when you have noted same, and oblige.

Yours very truly, — — —, Vice President. HSG:GY.

Mr. Albert Moyer, Manager of Sales, Vulcanite Portland Cement Co., 8 West 40th Street, New York City.

Encl.

[fol. 739½]

Govt. Ex. No. 92

Lehigh Portland Cement Co.,
Young Building

In reply please address and refer to 62988-C.

Allentown, Pa., March 26th, 1918.

Mr. H. S. Gaines, V. Pres. Cement Mfgs. Protective Asso., Philadelphia, Pa.

DEAR SIR: I am attaching cards on a number of contracts closed for delivery at Philadelphia and Newark, N J.

If it is possible for you to arrange for an early check up on these operations I will appreciate it, for although according to all information at hand they are correct, yet in view of the price advance last week I feel there is some question and am anxious to learn the results of your check up.

Yours truly, B. L. Swett, Eastern Sales Manager. BLS.

Encs.

[fol. 740]

Govt. Ex. No. 93

Lehigh Portland Cement Co.
Young Building

In reply please address and refer to 63170-C.

Allentown, Pa., April 1st, 1918.

Mr. H. S. Gaines, V. Pres. Cement Mfgs. Protective Asso., 19 W. 44th St., New York, N. Y.

DEAR SIR: As you have doubtless noticed, several of the companies have filed a large number of contracts for Baltimore, Md., during the past week.

According to the information I have, a number of these jobs are very badly inflated.

I am not calling each individual case to your attention separately, but suggest the advisability of a general check up on Baltimore contracts at the earliest possible opportunity.

Yours truly, B. L. Swett, Eastern Sales Manager. B. L. S.

[fol. 740½]

Govt. Ex. No. 94

May 20th, 1918.

Mr. Broomall, Mr. Norton, Mr. Oberman:

We are sending you under separate cover a copy of the Monthly contract report, which you are to use for your personal information in auditing contracts.

Please bear in mind that this information is absolutely confidential and that you should not under any circumstances divulge to any dealer, salesman or any other person, any information contained in this report.

You are likely to be asked by some dealer or contractor to tell him something about some other contracts in his immediate vicinity and ask you to get this information from this report, but under no circumstances should you do so.

As soon as the next report has been issued, a copy will be mailed to you and upon its receipt you should mail the previous copy back to this office, notifying me by letter when your old copy has been mailed.

Yours very truly, — — —, Vice President. HSG. GY.

[fol. 741]

Govt. Ex. No. 95

July 2nd, 1918.

Mr. W. D. Lober, Vice-President Vulcanite Portland Cement Company, Land Title Building, Philadelphia, Pa.

DEAR MR. LOBER: Enclosed herewith is suggested copy for the proposed booklet to be used by the auditors to hand out to dealers and others with whom the Cement Companies have contracts, whenever the question arises as to why contracts are being investigated.

This has been passed upon favorably by Mr. Cox, Mr. Dutton, Mr. Holman, Mr. Coogan and Mr. Swett.

I expect to see Mr. Scott and Mr. Erdell within the next few days, and will appreciate hearing from you as to whether or not this will meet with your approval.

Yours very truly, — — —, Vice President. HSG-G.

Enc.

[fol. 741½]

Govt. Ex. No. 96

August Twentieth, Nineteen Eighteen.

Mr. Frank Broomall, 1 Oakland Avenue, Pleasantville, N. J.

DEAR FRANK: Enclosed find request for investigation of two contracts at Coatesville, Pa. As soon as you get an opportunity I would like to have you go up there.

I have a report that C. J. Domsohn & Co. who are dealers, had been buying cement through another dealers in that town at a lower price than the manufacturers can sell in that market. Understand he bought three cars last month. Before you start investigating the two contracts I am sending you, and before you make yourself known in the town, wish you would try to find out what this brand of cement is, as there is no question in my mind but that some dealer there is taking advantage of the manufacturer and drawing cement on contract for resale instead of putting it on the contract covering the purchase of same.

They are no doubt loading cement out of their warehouse from time to time, and if you are not able to get into the warehouse easily, if you would hang around the vicinity of the yard until some cement [fol. 742] goes out on a truck, by following the truck you would have no trouble in finding out what brand of cement was delivered from the warehouse.

This is the kind of a job I do not like to have anything to do with, but these are extraordinary times and this seems necessary now. You will have to be particularly careful on old contracts, because we find that there is such a great difference between the price of cement now and the price when the contracts were made, early in the Spring, that many of the dealers are using every effort to cover up their operations and draw cement on their old contracts for resale on jobs other than the ones covered by the contracts, and it is of course under such circumstances that we can be of great value to our members.

Keep me advised, as usual, how you are getting along, and in case you have any extraordinary difficulties you might call me up from Coatesville.

Kindest regards.

Yours very truly, ———

[fol. 742½]

Govt. Ex. No. 97

August Thirty-first, Nineteen Eighteen.

Mr. Harry I. Norton, 166 Devonshire Street, Boston, Mass.

DEAR MR. NORTON: Beg to hand you herewith request for the investigation of Edison contract B-280-1239; one-third requirements of the City of New Bedford.

I have information to the effect that the dealer in this case is selling Edison cement in New Bedford at less than the present dealer's price, and what I would like to have you do is to investigate this contract from the city end first, and without making any more noise than possible get all the information you can before you go to the dealer. It is more than likely that the dealer will refuse to give you any information, or in case he does, it is liable to be faulty, therefore you should be on your guard and be as careful as possible in verifying everything in connection with this contract.

In the future we are not going to have much trouble along these lines, as the situation is changing, in accordance with another letter I am writing you explaining the situation fully, but on many of these old contracts where the dealers have been stealing cement, [fol. 743] we are going to have to do some cleaver work in turning up the facts, and it is a matter of great gratification to know that I am able to depend upon you entirely in such matters. We will not have a large number of contracts to investigate in the future, but the quality of the investigation will have to be very rigid, as everything depends upon our getting complete information as well as accurate information.

Best regards, and hoping you have a nice holiday over Labor Day, I am,

Yours very truly, — — —, Vice President. HSG.-G.

Enc.

[fol. 743 $\frac{1}{2}$]

Govt. Ex. No. 98

September Fifth, Ninteen Eighteen.

Mr. Harry I. Norton, 166 Devonshire Street, Boston, Mass.

DEAR MR. NORTON: Herewith are requests for the investigation of six Edison contracts. Contracts B-228-1011, B-225-1013, B-276-1225 and B-277-1226 reported as completed, which means that all the cement called for by these contracts has been shipped, and it is supposed that the work is completed. I want you to find out if you can, without making too much noise about it, whether or not this cement was used on these jobs and estimate the total requirements of the jobs. The other two contracts are still alive and should be investigated in the usual way.

From one of your recent reports on work in Quincy, Mass.: if there is cheap cement being sold in the market, the investigation of these contracts that cement was shipped on should develop what cement it is. Of course if you can pick up any information along the line as to what cement is being sold by the dealers or used on other jobs than those covered by contracts, I would like to have a special report, advising what cement it is and what is being done with it.

Yours very truly, — — —, Vice President. HSG.-G.

Enc.

[fol. 744]

Govt. Ex. No. 99

Borden & Remington Co., Importers and Dealers, Fall River, Mass.

June 9, 1919.

Mr. H. S. Gaines, Cement Mfg. Protective Ass'n., 19 West 44th St., New York City.

DEAR MR. GAINES: Your Mr. Norton called on us a few days ago and the Writer will admit he was not in a mood to discuss contracts with him, and left matters saying that we would write to you along the same lines as we talked with him.

Just to show you how ridiculous the matter appears to us, will say that on the only contract discussed, we have the following comments to make:

Cement for Paving Work—New Bedford, Mass.—Simpson Bros.
Contract

Mr. Norton admits that he has been to Mr. Knowlton of Simpson Bros. Co. for this information. Hence we would not attempt to check up Mr. Knowlton's records on this matter. The information Mr. Norton would secure of us is how much we have delivered, how much more is to be delivered, how much is booked, specific [fol. 744½] names of streets, whether they will use the entire amount specified, when, etc. As we have just started this work, the request for information along these lines, seems to us to be ridiculous.

We haven't the time on a margin of ten cents per barrel, to keep posted on any such lines as would be necessary to answer Mr. Norton's inquiries.

The writer is in hopes of getting on to New York the latter part of this month, and will endeavor to talk with you a few moments on this subject if you care to.

Assuring you that we have no personal feelings in this matter, and with kind regards, we beg to remain

Very truly yours, Borden & Remington Co. F. H. Kingsley. FHK/S.

Dictated, but not read.

[fol. 745]

Govt. Ex. No. 100

June Twelfth, Nineteen Nineteen.

Mr. F. H. Kingsley, c/o Borden & Remington Co., Fall River, Mass.

DEAR MR. KINGSLEY: Have your letter of June 9th. If you will advise me a few days ahead when you expect to be in New York. I shall, of course, be more than glad to see you here and advise you of the scope of the operation of this Association.

When you have gone over this matter I am sure you will feel that the Association is doing everything that is proper and for the best interests of the entire industry.

With kindest personal regards, I am,

Yours very truly, ———, Vice-President. HSG-G.

[fol. 745½]

Govt. Ex. No. 101

Hereules Cement Corporation

New York

May 19th, 1920.

Cement Manufacturers' Protective Ass'n, 19 West 44th Street, New York City.

GENTLEMEN: We have been advised by our Philadelphia Office that the Auditor who is auditing contracts in the neighborhood of Bethlehem, Pa., has told some of the dealers as well as some of the contractors in that section that he was checking contracts at our request. Of course his statement was true, but at the same time we feel that the best interest will be served if he made no mention of our request, and simply say, if he has to say anything, that he was sent there by the Association to check the contracts.

[fol. 746] This is not in the nature of a criticism but a suggestion, and we will be very glad to have your opinion.

Very truly yours, Hercules Cement Corporation. E. B. Goode, Jr., Sales Manager.

Above matter was taken up with Mr. Goode by C. R. Hulsart. EBG/MSF.

Endorsed: Received May 20, 1920. Cem't Mfg. Prot. Ass'n.

[fol. 746½]

Govt. Ex. No. 102

Vulcanite Portland Cement Co.

Office of Manager of Sales

New York City, August 13th, 1920.

Cement Manufacturers Protective Association, 19 West 44th Street, New York City.

GENTLEMEN: Following is a quotation from a letter received from the Sears Lumber Company, Middleboro, Mass., dated August 12th:

"Mr. H. I. Norton, Auditor for the Cement Manufacturers Protective Association called on us only last Saturday looking up the prospect of the cement being wanted on the Casper Ranger contract, and we informed him that we had just placed an order for the last two cars. He informed us that the manufacturers were frequently [fol. 747] troubled with their customers not taking the amount of cement contracted for and they having it left on their hands."

If Norton made any such statement as this, which is doubtful, he should be severely reprimanded.

Yours very truly, Vulcanite Portland Cement Company. Albert Moyer. Albert Moyer, Manager of Sales. AM:MT

Endorsed: Received Aug. 14, 1920. Cem't Mfg. Prot. Ass'n.

[fol. 747½]

Govt. Ex. No. 103

August 16th, 1920.

Mr. Albert Moyer, Mgr. of Sales, Vulcanite Portland Cement Co.,
8 West 40th Street, New York City.

DEAR SIR: Replying to yours of August 13th relative to a reported statement of our Auditor, Mr. H. I. Norton, to a representative of the Sears Lumber Company, Middleboro, Mass.

We have taken this matter up with Norton to get from him a memorandum of the conversation as he recalls it. We at the same time impressed upon him the necessity for avoiding any references to the relations between our member companies and their customers, of the seriousness of lack of care in this respect.

We will be pleased to submit to you any information in connection with the reported conversation that Norton may furnish.

Yours truly, Cement Manufacturers Protective Association.
C. Raymond Hulsart, Vice President. CRH/B.

[fol. 748]

Govt. Ex. No. 104

August 16th, 1920.

Mr. Harry I. Norton, 77 Summer Street, New York City.

DEAR MR. NORTON: The following is a quotation of a conversation which has been reported as having taken place between you and the Sears Lumber Company, Middleboro, Mass.

Mr. H. I. Norton Auditor for the Cement Manufacturers Protective Association called on us last Saturday looking up the prospect of the cement being wanted on the Casper Tanger contract, and we informed him that we had just placed an order for the last two cars. He informed us that the manufacturers were frequently troubled

with their customers not taking the amount of cement contracted for and they having it left on their hands."

Will you please forward at once your recollection of the complete conversation in question, especially as it refers to the subject of the last sentence of the above quotation.

In this connection I wish to caution you that our field men must confine their remarks to only such conversation as may be necessary to secure the facts in connection with the contract under investigation. This of course would include the necessary conversation required by courtesy and to establish as cordial relations as possible with person interviewed. In all interviews our field men must avoid any reference or remarks concerning the relations between member companies and their customers.

Please give me a complete report covering the above at once.

Cement Manufacturers Protective Association. C. Raymond
Hulsart, Vice President. CRH/B.

[fol. 749]

Govt. Ex. No. 105

Boston, Mass., 8/23/20.

Mr. C. Raymond Hulsart, 19 West 44th St., N. Y. C.

DEAR SIR: In reply to yours of 16th regarding conversation with Mr. Sears of the Sears Lumber Co. in response to his question of the reason of our investigations, I outlined as near as possible our aims and during our talk told him that through overestimated contracts the manufacturers had on their books large balances which were automatically cancelled each year as contracts expired and the mills were very anxious to know just what was actually to be delivered on each order placed.

Mr. Sears had had recent correspondence with his mill and wanted to know all manner of things but I told him that we had nothing to do with any mills except to furnish the information regarding the status of contract under investigation, cannot see how he misunderstood me.

Yours respectfully, H. I. Norton.

[fol. 749½]

Govt. Ex. No. 106

August Twenty-sixth, Nineteen Twenty.

Mr. Albert Moyer, Mgr. of Sales, Vulcanite Portland Cement Co.,
8 West 40th Street, New York City.

DEAR SIR: In further reference to your letter of August 13th, concerning a reported statement of our engineer, Mr. H. I. Norton, to a representative of the Sears Lumber Co., Middleboro, Mass.

Norton reports the conversation as follows:

"In reply to yours of the 16th regarding conversation with Mr. Sears of the Sears Lbr. Co. in response to his question of the reason of our investigations. I outlined as near as possible our aims and during our talk, told him that through overestimated contracts the manufacturers had on their books large balances which were automatically cancelled each year as contracts expired and the mills were very anxious to know just what was actually to be delivered on each order placed.

Mr. Sears had had recent correspondence with his mill and wanted to know all manner of things but I told him that we had nothing [fol. 750] to do with any mills except to furnish the information regarding the status of contract under investigation."

The first paragraph of the above, it appears that Norton had a desire to establish friendly relations with the dealer by answering his questions as made on statement concerning matters that he is unacquainted with concerning which he should have frankly said that he knew nothing about. I have written Norton to this effect and have given him very emphatic instructions that all matters pertaining to relations between cement manufacturers and their customers must be avoided in his interviews.

Very truly yours, Cement Manufacturers Protective Association. C. Raymond Hulsart, Vice-President. CRH/F.

[fol. 750½]

Govt. Ex. No. 107

August Twenty-sixth, Nineteen Twenty.

Mr. Harry I. Norton, 77 Summer Street, Boston, Mass.:

Replying to yours of August 23rd relative to your conversation with Mr. Sears of the Sears Lumber Company. You state that—"during our talk, I told him that through over-estimated contracts the manufacturers had on their books large balances which were automatically cancelled each year as contracts expired and the mills were very anxious to know just what was actually to be delivered on each order placed." This is a matter that is also all relations between cement companies and their customers, that our engineers are entirely unacquainted with. This is evident from the fact that your statement is not correct. Notwithstanding the correctness or incorrectness of such statements, our engineers must avoid in their interviews all reference to the relations between cement companies and their customers to relations between dealers and contractors and to what use that it made of the reports submitted by our engineers.

Please observe these instructions very carefully in the future.

Cement Manufacturers Protective Ass'n. C. Raymond Hulsart, Vice-President. CRH/F.

[fol. 751]

Govt. Ex. No. 108

Coplay Cement Manufacturing Company, Manufacturers of Saylor's
Portland Cement

200 Fifth Avenue, New York

August 23rd, 1920.

Cement Mfgs. Protective Assn., 19 West 44th Street, New York City.

GENTLEMEN: Enclosed please find letter received at our Philadelphia office from the Stichter Hardware Company of Reading, Pa.

These people are very old customers and it is quite natural that they should take exception to anyone telling one of their customers that Gring & Company of Reading were general agents for Saylor's. [fol. 751½] We sell Gring & Company as well as Stichter and they are both valuable accounts. We try to treat them both on an equitable basis without giving preference to either.

It seems to us if your inspector has made the remarks which he is said to have made, that he has been very indiscreet and we shall be obliged if you will give the matter careful investigation and report, returning enclosed letter.

Yours very truly, Coplay Cement Mfg. Company. J. F.
Twamley, General Sales Manager. JFT-F.

Endorsed: Received Aug. 24, 1920. Cem't Mfg. Prot. Ass'n.

[fol. 752] Write Coplay.
Write Davis.

Stichter Hardware Company
505 to 509 Penn Street, Reading, Pa.

August 19th, 1920.

Mr. Geo. L. Stewart, c/o Coplay Cement Company, Philadelphia, Pa.

DEAR SIR: Since writing you the letter in regards to Beard & Company, we had some information that the New York inspector was here several weeks ago, checking up different cement contracts with different contractors. We know he called at our place in regards to several contracts for which we were supplying cement. One of our contractors had a long conversation with him, stating that he was very much in need of your cement, that he had ordered a car through Stichter Hardware Company. The inspector stated that the Stichter Hardware Company was not in it for cement, that Gring & Company were the general agents, and from what he could learn were getting the preference. This is certainly not a very pleasant thing to hear. We have handled your cement long before Gring & Company [fol. 752½] was in existence and if there is any general agency given or a man like Gring has the preference, we would like to know

the correct facts. We know that we do not sell a great deal of cement, but at the same time we do not care to hear reports from some of our customers as we have just heard.

Yours truly, Stichter Hardware Company. A. B. S., Secy.
ABS/H.

Investigated 5 Coplay contracts Gring & Co. dealer.
" 1 Vulcanite, Stichter.

[fol. 753]

Govt. Ex. No. 109

August twenty-sixth, Nineteen Twenty.

Mr. J. F. Twamley, Gen. Sales Mgr., Coplay Cement Mfg. Company,
200 Fifth Avenue, New York City.

DEAR MR. TWAMLEY: Replying to yours of August 23rd relative to a conversation reported to you by the Stichter Hardware Company, as having taken place between one of our engineers and a contractor who is purchasing cement through the Stichter Company.

The engineer in question is now on vacation. I have directed him to report at this office on August 30th, at which time I will get his detailed report of any conversation that he may have had with contractors in the vicinity of Reading, Pa.

The statements report by the Stichter Hardware Company as having been made by our engineer are in violation of very specific instructions and also show a woeful lack of tact and good sense,—so much so, that I can hardly believe that such statements were made by our engineer who has heretofore given excellent satisfaction and has [fol. 753½] used very good judgment in his interviews. I will report to you at once the result of my talk with him.

The Stichter Company letter to your Mr. Stewart is returned herewith.

Very truly yours, Cement Manufacturers Protective Association.
C. Raymond Hulsart, Vice-President. CRH/F.

[fol. 754]

Govt. Ex. No. 110

September Seventh, Nineteen Twenty.

Mr. J. F. Twamley, Gen. Sales Mgr., Coplay Cement Mfg. Co., 200
Fifth Avenue, New York City.

DEAR MR. TWAMLEY: Replying further to yours of August 23rd, relative to a conversation reported to you by the Stichter Hdwe. Co., as having taken place between one of our engineers and a contractor who is purchasing cement through the Stichter Co.

I have had a talk with our engineer in question, Mr. Gaynor, who says he recalls no such conversation. While in Reading, Penna. ter-

ritory, he investigated five Copley contracts for which Gring & Co. were the dealers and one contract of another cement company for which Stichter Hdwe. Co. were the dealers. Our engineer claims that while investigating each of these contracts, he was very particular not to refer in any way to any dealer except the dealer for the contract under investigation.

While interviewing a contractor in connection with a particular cement contract, our engineer would state that his information was to the effect that a certain dealer was furnishing cement for that contract. Our engineer's only explanation of the story that reached [fol. 754½] the Stichter Co. is that this reference to a dealer was misunderstood or misinterpreted in some instance.

I regret that we are unable to secure any further facts in the case as I am anxious to get at the bottom of all reported instances of lack of tact or judgment on the part of our field men.

I made use of this instance to again call the attention of our engineers to the importance and necessity for avoiding any reference to the relations between dealers, contractors and cement companies.

Very truly yours, Cement Manufacturers Protective Association.
C. Raymond Hulsart, Vice-President. CRH/F.

[fol. 755]

GOVT. EX. No. 111

Vulcanite Portland Cement Co.

New York City, October 14, 1920.

Cement Manufacturers' Protective Association, 19 West 44th Street,
New York City.

Re S. Slotnick, Chelsea, Mass.

GENTLEMEN: We quote from letter received from our Boston Office dated October 11, 1920:

"Mr. S. Slotnick has just been in and is all up in the air. I tried to get all the details of his grievance but being afraid I only had part of it straight I have asked him to write you fully the whole story. As near as I can make out, the inspector from the Cement [fol. 755½] Association has been round investigating the contracts, and has been telling the contractors that there was plenty of cement, and that Slotnick got the cement for the contracts, with the result that they have all descended upon him declaring he kept their cement for his own use, or to sell at the higher price, which he declares is a' solutely untrue, as he has parcelled out to the contracts the cement the company sent for those contracts. He has promised me that he will write you just exactly what the matter is, as I told him you were always interested to know of any difficulty like this and would do all you could for him. He says that the Vulcanite Company have treated him very well this summer, in fact that they

have done better by him than Penn. has, and he appreciates it very much, and that he had not a word of fault to find until this man, as he says, "kicked up this mess and upset everybody."

We would be pleased to have your report on this matter.

Yours very truly, Vulcanite Portland Cement Company. Albert Moyer, by W. L. Hanavan. TGB:F.

Endorsed: Received Oct. 15, 1920. Cem't Mfg. Prot. Ass'n.

[fol. 756]

GOVT. EX. No. 112

October Sixteenth, Nineteen Twenty.

Mr. Harry I. Norton, 77 Summer Street, Boston, Mass.:

One of the member companies has received a complaint from their Boston office concerning matters claimed to have been told by you to contractors in connection with some of your investigations. This complaint is out-lined in the following quotation from a letter received by the member company, from their Boston office:

"Mr. S. Slotnick has just been in and is all up in the air. As near as I can make out, the inspector from the Cement Association has been round investigating the contracts, and has been telling the contractors that there was plenty of cement, and that Slotnick got the cement for the contracts, with the result that they have all descended upon him declaring he kept their cement for his own use, or to sell at the higher price, which he declares is absolutely untrue, as he has parcelled out to the contractors the cement the company sent for those contracts. — this man, as he says, 'kicked up this mess and upset everybody'."

On account of the several complaints of this nature that have reached this office, I am wondering if you use sufficient care in your [fol. 756½] interviews. Again, I must insist that you make no statements whatever, concerning the general cement situation, shipments of cement, relations between cement companies and dealers or relations between dealers and contractors. These are matters concerning which you have no authoritative information whatever and concerning which you must not, under any circumstances, discuss with any one. If you are questioned about any such matters, or concerning the object of our investigations, or the use that is made of the reports, you should say frankly that you do not know. Any time that an auditor presumes to discuss these matters, it will lead to trouble and complications.

Please give me, at once, a complete report covering the subjects of conversation in all interviews that you have had in connection with Slotnick's contracts.

I cannot emphasize too forcibly, the necessity of avoiding all

references in your interviews to the above matters and I must insist upon your very careful observance of this in the future.

Cement Manufacturers Protective Ass'n. C. Raymond Hulsart. CRH/F.

[fol. 757]

Govt. Ex. No. 113

The Master Builders Association of Boston

77 Summer Street

10/19/20.

DEAR MR. HULSART:

Yours of the 16th regarding Slotnick at hand and I wish to say that I never told any of Slotnick's customers that he was using their cement for other purposes, although several of his customers accuse him of doing it. You realize that when you go to a contractor, you have to listen to all of his troubles before he is willing to tell anything. [fol. 757½] However I tell them all, that we are not in a position to know cement conditions, that our sole purpose is to get facts upon existing contracts. This particular class of people are the worse class that I come in contact with and they will say anything, their contracts are all mixed up and when you get through with an interview, you have few facts. Trusting this explanation is satisfactory I am

Yours truly, H. I. Norton.

[fol. 758]

Govt. Ex. No. 114

October Twenty-eighth, Nineteen Twenty.

Mr. Harry I. Norton, 77 Summer Street, Boston, Mass.:

Referring to your letter, in reply to mine of October 16th, concerning interviews which you had in connection with Slotnick's contracts.

You have not given me a complete report covering the subjects of conversation in all interviews that you had in connection with Slotnick's contracts. I wish that you would furnish this at once, outlining as far as you can, remember just what was said by you and the person interviewed in each case.

You state in your letter that several of his customers accuse him as using their cement for other purposes. It is such matters as this that I wish covered in your report, together with such replies that you may have made when these accusations were made.

It would seem that something must have been said which led some of the contractors to infer that cement that had been shipped to Slotnick had not reached them.

Please give this your immediate attention and report in detail.

Cement Manufacturers Protective Ass'n. C. Raymond Hulsart, Vice-President. CRH/F.

[fol. 758½]

Govt. Ex. No. 115

Hotel Kimball

Springfield, Massachusetts

Nov. 1/20.

DEAR MR. HULSART: I cannot write you a detailed account of my interviews with Slotnick's customers, there were ten or a dozen as I remember, all I can do, is to restate that I told no one that he was using their cement, although several accused him of it. Knowing them as I do, they would say anything and from the fact that they told me about it, no matter what my reply, they would say I said so.

I am surprised that you would believe that I made such a statement after more than three years on this work. Getting information around Boston is very distasteful at the best.

Would suggest if you care to appease Slotnick it might be well to replace me with another man and notify him.

Yours truly, H. I. Norton.

[fol. 759]

Govt. Ex. No. 116

November Ninth, Nineteen Twenty.

Mr. Harry I. Norton, 77 Summer Street, Boston, Mass.:

Replying to your letter of November first, relative to your interviews with Slotnick's customers. I was very careful in my former letter to avoid expressing any beliefs as to what statements were made. My only thought was that in some of the conversations that took place, consisting as they naturally would, of many questions and answers that something may have been said which a contractor either misinterpreted, misquoted or inferred that cement shipped to the dealer had not reached him.

My insistence upon a detailed report of the interviews involved was not to "appease" Slotnick but to convince the complaining cement company that the matter was properly handled by you. I am constrained in this connection to remind you that any suggestion from one of our auditors as to how the matter of complaint concerning alleged conversations of that auditor should be handled is a bit out of place.

I wish also to again remind you of the very great care that all of our auditors must use in avoiding subjects in interviews that may be misquoted, misinterpreted or lead to inferences not intended by the auditor. Some of these subjects are covered in the third paragraph of my letter to you of October 16th.

Cement Manufacturers Protective Association. C. Raymond Hulsart, Vice-President. CRH/F.

[fol. 760]

Govt. Ex. No. 117

Organization Meeting of Cement Manufacturers' Protective Association

Meeting at the Engineers' Club, 32 West 40th Street, New York City, at 2:30 p. m., Thursday, January 6, 1916.

John B. Lober, Esq., Presiding.

Archibald Cox, Esq., Counsel.

Companies represented:

Allentown Portland Cement Company, R. L. Cope.

Alpha Portland Cement Company, by G. S. Brown and F. M. Coogan.

Atlas Portland Cement Company, by D. H. Macfarland and J. R. Morron.

Coplay Portland Cement Company, by W. G. Dutton and F. L. Loeb.

Dexter Portland Cement Company, by Joseph Brobston and R. W. Hilles.

Edison Portland Cement Company by W. S. Mallory.

Giant Portland Cement Company, by R. E. Griffiths.

[fol. 761] Glens Falls Cement Company, by G. F. Bayle.

Lawrence Portland Cement Company, by M. S. Ackerman, and F. H. Smith.

Lehigh Portland Cement Company, by B. L. Swett and E. M. Young.

Penn-Allen Portland Cement Company, by W. E. Erdell.

Pennsylvania Portland Cement Company, by E. P. Alker and W. N. Beach.

Phoenix Portland Cement Company, by I. L. Gilkynson.

Vulcanite Portland Cement Company, by John B. Lober, and Albert Moyer.

The Chairman: We all understand what we are here for. I was requested to call you here to consider the plan, copies of which have been sent to you; and the idea was to have you go over it carefully, and I presume you have done that; and we have Mr. Cox here who prepared the plan and who is ready to answer any questions and listen to any criticism. You need not hesitate, any of you, to make any criticisms of the plan or any suggestions; we are very glad to have them.

Of course, you understand that the idea of this thing is cooperation, and I think it is not necessary to say any more on that point. We all agree that the necessity of cooperation is acknowledged by [fol. 762] everybody in the industry. The only question now we have to determine is how we can best make use of cooperation. I will not repeat the story of Mr. Arnold, as you all heard that, which I think is a very apt illustration of how not to use it.

I do not think it is necessary to occupy any more of your time, but simply to say that the first question to be determined here today is, "Do we want an association; and if so, do we want one along the lines laid down in this plan?" And, therefore I ask you individually to make any criticism, any objection which you may have to make to it; and if you have none, if we agree that it is a good plan and are willing to adopt it, we will do that, and then go on with the details later.

I might say that I had responses from Penn Allen, Alpha, Giant, Alsens, Allentown, Dexter, Lehigh, Lawrence, Glens Falls, Phoenix, Pennsylvania and Coplay; all of these companies promised to have representatives here. The Bath Company stated that they had referred the plan to counsel and would act according to his advice. I have not heard from them since.

Mr. Brown: Mr. Chairman, in order to present this matter to the meeting, I offer this resolution: It is the sense of this meeting that the printed plan of organization prepared by Mr. Cox be adopted.

The Chairman: Are there seconds to that motion?
[fol. 763] Mr. Loeb: I second the motion.

The Chairman: You have heard the motion and it is before you for discussion, if you want to discuss it.

Mr. Loeb: Gentlemen, I want to make this statement in regard to this proposed plan. If you adopt it, we will be heartily in favor of it, and with that in view you are to see that we are thoroughly in earnest; but I want to present some slight alterations in the outline of the prospective association, in the constitution as well as in the by-laws, which in our opinion might improve it. If you adopt those changes, we would like to see them adopted. On the other hand, if they are not adopted we will stand on this outline just as you have printed it, and be with you heartily.

The Chairman: Mr. Loeb, will you tell us what those changes are?

Mr. Loeb: Well, they are quite lengthy, but the underlying principle of those changes are first, a repetition that every manufacturer is to do business as he pleases. That had better be left out, because that is self-evident. Another thing, "Members shall not violate the law."

The Chairman: That is Article III?

Mr. Loeb: Well, in a number of instances we come across remarks that the manufacturer is free to do business as he pleases, and then in some instances you have that the members shall not violate the law. [fol. 764] In other words, you have one particular paragraph here, under Article VIII "Freedom of Trade."

The Chairman: Yes.

Mr. Loeb: We suggest that that first paragraph be entirely struck out. It is unnecessary, because if we do violate the law, the law will be after us. We do not have to say that we will not violate the law.

And then there are a few minor changes which I think we had better go into as we go along a little later; but in general we are with you on the whole proposition.

The Chairman: The motion before the meeting is to adopt the plan, including the constitution and by-laws, as a whole. Therefore, if any changes are to be made, they should be made in the form of amendments, and where you want changes made or think they should be made or want to take the sense of the meeting in regard to them, I think it would be advisable to submit an amendment to the present plan.

Mr. Loeb: Then I will present this plan, with the corrections, as the amended proposition (producing paper).

The Chairman: I do not think anybody has been elected chairman of this meeting, or anyone has been elected Secretary. I was asked to take the chair, and I will stay here if there is no objection.

Mr. Young: I move that Mr. Lober act as chairman of this meeting. [fol. 765] The motion was seconded.

Mr. Young: Since the motion is seconded, I will put it to a vote.

The motion was carried unanimously.

The Chairman: Mr. Young, will you complete it by having Mr. Coogan made secretary?

Mr. Young: The motion before you is that Mr. Coogan act as secretary.

A Member: There is a stenographer acting as secretary.

The Chairman: I think someone should be elected secretary. The stenographer will work with the secretary.

Mr. Young: The motion before you is that Mr. Coogan act as secretary of this meeting. All in favor of the motion please say aye.

The motion was carried unanimously, and Mr. F. M. Coogan acted as secretary.

The Chairman: Now, Mr. Secretary, I will pass this paper which Mr. Loeb submitted down to you; and you, with the help of Mr. Loeb, will read those changes and give us some idea of what we are considering.

Mr. Brown: Mr. Chairman, in presenting that resolution I did so with the idea that if there were any objections of any kind to it, they would be brought out at once. I presume that the question of joining or not joining has been in most cases referred to counsel for opinion. In our own case, our counsel approved the plan as pre-[fol. 766] sented, and said that he had no hesitancy whatever in advising us to join the association, in the event that we felt that it would be a good thing to do, from a practical standpoint. He then went on and made some suggestions for changes, and it seems to me that it may be that other companies have suggestions for changes, and I wondered whether it might not be just as well to adopt this Constitution and By-laws and plan as presented, and then have a committee appointed to take up the matter of changes in the By-laws and Constitution, consider them all in detail, take Mr. Cox's advice in regard to them, and then bring them up before a later meeting for final action. I do not know how that would strike Mr. Loeb.

Mr. Loeb: That was the idea. I wanted to say that in general we are agreed on the idea. As to the details, let them be corrected later on.

The Chairman: Perhaps I might say a word right here. I had a conference with Mr. John G. Johnson yesterday, on this, and Mr. Johnson had had the plan in his hands for two or three days and he told me that after going over the Constitution and By-laws carefully he could see no reason why we should not adopt them and use them; that the only danger that he saw in an organization of this kind was in the possibility of our doing things outside of the lines laid down here; that sometimes organizations of this kind were tempted to go beyond the lines of the original plan. I then called [fol. 767] his attention to the fact that it was proposed to have stenographic reports of the proceedings, and that those reports would constitute a record of our transactions, and would be subject to investigation by anybody who had any right or authority to investigate us. He said he thought that was a very good idea, and then repeated what he said before, "As long as you work within the lines laid down there, there is no danger, and you are entitled to do everything that you have provided for in your Constitution and By-laws of that plan." That is so far as the legality is concerned.

Mr. Morrin (Mr. Morrin had arrived late), there was a motion made to adopt this plan, including the Constitution and By-laws as a whole. Mr. Loeb, representing the Coplay Company, said that his company was heartily in favor of the plan; that he had some suggestions as to changes, and those proposed changes have been placed in the hands of the Secretary, Mr. Coogan. They have not been considered. That is as far as we have gone. Mr. Brown stated that his idea in making the motion was to bring the matter properly before the meeting, and, of course, he expected that if any member took exception to any part of the plan or to the Constitution or By-Laws, he would suggest changes. That is where we are now.

Mr. Loeb: Mr. Chairman, I want to say that I seconded Mr. Brown's motion in order to bring it before the meeting, and I made [fol. 768] also a very important statement that whether the changes be adopted or not, we are in favor of the Constitution and By-Laws as it is going to be outlined or as it is now outlined.

The Chairman: Now, gentlemen, the subject is before you. If it is thought advisable we can appoint a committee to take into consideration these proposed changes. Are there any other changes? Does anybody want to make any changes?

Mr. Morrin: Is there any provision in the plan, for making changes in the plan itself?

The Chairman: In the form of amendments.

Mr. Cox: Yes, in Article VII.

The Chairman: But we have not adopted this thing at all as yet, you know.

Mr. Morrin: No, but I understand there is a motion to adopt it, and what I meant to cover was that if it was adopted there would still be the provision for amendments under Article VII.

The Chairman: Always.

Mr. Morrin: Which would cover Mr. Loeb's suggestions.

Mr. Young: Mr. Chairman, are there any answers to the ques-

tion which you just asked, as to whether there are any other proposed changes?

The Chairman: I have not heard them.

Mr. Mallory: I have one amendment. It is just a matter of detail; it is not material, but I think it would strengthen it a little bit.

[fol. 769] Mr. Brown: Mr. Chairman, would it be proper to ask if any of the members here have had any advice from anyone, that the scheme as proposed is not a perfectly proper one, from every viewpoint?

The Chairman: Is there any answer to that? (No response.)

The Chairman: I imagine that every one has consulted counsel about it.

Mr. Mallory: We have not, Mr. Lober.

The Chairman: You have not?

Mr. Mallory: No.

The Chairman: What do you want to do about this? Do you want to adjourn for a few minutes, appoint a committee to make these changes, or go ahead and adopt this Constitution and By-Laws as it is, leaving the amendments and changes for a later period?

Mr. Morrin: Mr. Chairman, I suggest that you go ahead on this proposition as it stands, because if, as we have heard, this proposition has been submitted to counsel and been approved by counsel in every detail, then I think that this proposition having been submitted to counsel and approved by counsel ought to be passed now; and if there are any amendments, I think it would be just as well to submit those amendments to Mr. Cox as the proposed changes. Therefore, I think we ought to vote on this as it stands, rather than vote on any amendment.

[fol. 770] The Chairman: I think that if you attempt to change this now, it is going to take up probably a large part of our time, and lead probably to more or less confusion. It seems to me that Mr. Morron's suggestion is a good one, that we adopt this Constitution and By-Laws as it has been prepared for us, and then amend it, if we want to, in accordance with the ideas of the majority.

Mr. Loeb: Mr. Chairman, with that in view I want to withdraw the amended constitution as I handed it in, so that you are free to act in the manner indicated.

The Chairman: Then that brings us back to the original proposition, which was to adopt the Constitution and By-laws, the plan as a whole, as it is embodied in this printed pamphlet. Is there anything more to be said on it?

Mr. Morron: And that motion, Mr. Chairman, would carry with it the idea of the desirability of an organization of this character?

The Chairman: Certainly. Are you ready for the question? All in favor of the motion will say Aye.

(The question was put.)

The Chairman: It is a unanimous vote in favor of the adoption of the plan, including the Constitution and By-laws.

Mr. Morron: Now, is the Chair going to appoint a committee on the officers of the Association?

[fol. 771] "The Chairman: It has been suggested to me that after the adoption of the plan we take a recess of about fifteen minutes, but I think previous to that we should appoint a nominating committee. Is that your idea, Mr. Brown?"

"Mr. Brown: Yes, that was my idea, that the Chairman appoint a nominating committee of four or five men and declare a recess of fifteen minutes while they should——"

"The Chairman: Prepare a ticket?"

"Mr. Brown: Prepare their ticket. That was the idea I had when I made the suggestion.

"Mr. Beech: Mr. Chairman, in fifteen minutes I think we can get the larger room upstairs, on the tenth floor.

"The Chairman: I will appoint a committee of five then, consisting of Mr. Brown, Mr. Brobston, Mr. Bayle, Mr. Erdell and Mr. Griffith.

"Now, we will stand adjourned for fifteen minutes.

"Mr. Young: Before we adjourn, Mr. Chairman, what plan will be followed in connection with the formulating of the proposed amendments, so as to meet——"

"The Chairman: They will have to be submitted in accordance with the provisions of the Constitution.

"Mr. Young: Would it not be well to have some general plan by which all suggestions would be merged into one general amendment?"

[fol. 772] "The Chairman: Suppose we appoint a committee to consider these amendments, and let the members who have amendments to offer submit them to that committee? The provision here is that they must be presented to the Secretary two weeks before the next meeting of the Association.

"Mr. Young: As long as Mr. Cox has prepared this plan, it would seem to me that possibly a good scheme would be to send all suggestions to him to formulate.

"The Chairman: We will put him on a committee. It does not matter, it is immaterial how you do it. Mr. Young, in regard to the By-laws, 'Amendment to these By-laws may be proposed at any regular or special meeting of the association, provided that it has been presented to the Secretary, signed by three members, and a copy sent to each member in the notice of the meeting, and such proposed amendment may be discussed at such meeting and adopted by a two-thirds vote of those present, if it is in accord with the Constitution of the Association.'

"It seems to me that it would be better to let these amendments go over until the first regular meeting we have. What we have got here is not going to affect us seriously, one way or the other. It is simply a starting point. We have got to start somewhere; we start with this plan, with this Constitution and these By-laws. If they are not entirely satisfactory, at the next meeting, the first regular [fol. 773] meeting of the Association, those amendments or proposed amendments can be offered and acted upon.

"Mr. Morron: Mr. Young, would it cover your point if those amendments were submitted to the Secretary, to be elected, and

then the Secretary have Mr. Cox approve them before being presented to the meeting for consideration, to see that they had proper legal guidance?

"Mr. Young: Yes, I think so.

"Mr. Morron: Then if that is so, the only thing we would have to take into consideration would be the commercial aspect of the proposition, and then we could take that up from time to time.

"The Chairman: Yes. My idea is that Mr. Cox is to pass upon practically everything that is proposed.

"Mr. Morron: Yes, but the order of procedure would be to send them in to the Secretary, then the Secretary take them to Mr. Cox, and then the Secretary bring them out at this meeting after Mr. Cox's approval in his form.

"Mr. Young: Proposed amendments should be presented, regardless of whether Mr. Cox approves or not, but it should be so represented at the meeting, that Mr. Cox does not approved.

"Mr. Morron: Yes.

"The Chairman: Oh, yes.

"Mr. Morron: And only adopt that which he approves.

[fol. 774] "Mr. Young: The appointment of a committee would hardly facilitate it.

"The Chairman: It is not necessary.

"Mr. Cox: It is not necessary.

"The Chairman: My thought was that there might be a number of members who might have something to suggest; but then, they can say it just as well to the Secretary, and I think it would be better for them to take and write the amendment out, stating that it is an amendment to Section so-and-so of the Constitution and By-laws and stating specifically wherein they want to change that By-law or that section of the Constitution, so that there can be no confusion about it.

"Mr. Cox: I might say, Mr. Chairman, that the theory of Article VII is that every member of the Association should have an opportunity to submit any question that goes to the changing of the Constitution to his own counsel, and for that reason the provision is that it should be by letter only, so that each company can ask his counsel whether he thinks this proposed change is right or wrong, whereas the By-laws can be amended at any meeting. I think it is a good scheme, in a thing of this kind, to follow that general plan, which would be followed by the present suggestion.

"The Chairman: It is not necessary, as I see it, to take any action on the subject.

"Mr. Cox: No.

"The Chairman: But simply state to those present that the Secretary will receive any amendments which they have to offer, he will consult counsel, Mr. Cox, in regard to it, and they will be presented for action at the regular meeting in the regular way, as provided for.

"Mr. Morron: On a letter ballot.

"Mr. Cox: Yes.

"The Chairman: That is in regard to the Constitution; that is not on the By-laws.

"Mr. Morron: No.

"The Chairman: We have to follow, of course, the plan laid down by the lawyers. That is why I thought it would be wise to have the Constitution and By-laws adopted as they are, because then we have something to work on, something to guide us.

"Mr. Morron: Are we adjourned now, Mr. Chairman?

"The Chairman: We will adjourn for fifteen minutes.

"Mr. Brown: The committee, I may say, will be glad to have notice from all candidates as to the office that they are seeking, so that we can consider just which ones are best."

(Whereupon at 3:07 P. M., the meeting adjourned, and reconvened on the 10th floor at 3:33 P. M.)

"Mr. Bayle: I would like to apologize for coming into the meeting rather late, but I would like to inquire whether any particular number have signified their intention of joining the organization, [fol. 776] or whether it is simply taken for granted that all these companies will?

"The Chairman: It is taken for granted that all the companies represented here today have signified their intention of joining. The Alsens Company promised to have a representative here; Mr. Sinclair promised to be here; and I have been in communication with his office and find that he was obliged to go out of town; and he delegated Mr. Corbin, and the people in the office thought Mr. Corbin was here.

"Mr. Beech: I would like to say a word, if I may, Mr. Lober. I have a telephone right now from the Alsens Cement Company, and they said Mr. Corbin had left for this meeting, and they do not understand why he had not arrived.

"The Chairman: The only other company that I heard from that they approved of the proposition, was the Bath, and they did not frankly say they would be here. The Bath people had submitted the plan to counsel, and will be governed by his advice. I have not heard from them since.

"Mr. Bayle: Did you hear from the Knickerbocker or the Helderberg?

"The Chairman: No, not from the Helderberg.

"Mr. Erdell: And the Nazareth will join, too.

"Mr. Bayle: It is very important to get those in.

"The Chairman: It seems to me that Mr. Young's suggestion is a [fol. 777] good one, that the officers take up this question and make an estimate of expenses, and then also an estimate of the amount to be assessed to cover those expenses, and also an outline of the territory so we will know what we are doing, what we are working on; and the President has the power to call a meeting at any time when the officers are ready to report.

"Mr. Bayle: Do you want that suggestion in the form of a motion, Mr. Chairman?

"Mr. Young: I did so move.

"The Chairman: Yes, he made that motion. Are you ready for the question?"

"(The question was put and carried unanimously.)

"Mr. Young: My thought was, in making the motion, that the question of the time of the meeting could be left to the president.

"Mr. Bayle: I think, Mr. President, it would be also necessary that the newly-elected officers should try to see the companies that are not here represented, and get them in here. One or two companies staying out might destroy all the good work the rest of us might do.

"The Chairman: Mr. President, will you take that up with the Knickerbocker and the Helderberg?"

"President Griffith: Yes, sir."

* * * * *

"President Griffith: Gentlemen, if it is agreeable to this Association [fol. 778] I would like to call a meeting for eleven o'clock in this room, on Friday of next week, the 14th.

"The Chairman: Mr. President, you will have to make sure that we can get this room, you know.

"Mr. Beach: You can get the front room, I think, all right.

"Mr. Morron: Just one thought, on that, Mr. President. I am wondering whether having the meeting in this Club is a particularly good thing? You come in contact with people with whom you are doing business, who might misinterpret it to some extent. A great many men that you do business with are members of this Club, and it seems to me that that might be misconstrued by some who are always willing to misconstrue things. If they saw a great big group of cement men coming into this Club constantly——

"The Chairman: How about a hotel?"

"Mr. Morron: I should say that until you have some regular place to meet, a hotel would be a better proposition. Make your date for whatever date you want to appoint it, that is 11 o'clock Friday if you say so, and then send out notices where you will hold the meeting.

"President Griffith: All right, sir.

"The Chairman: Let us know where.

"President Griffith: Yes, sir. I want to find out if 11 o'clock will suit, on Friday the 14th?"

"Mr. Ackerman: Would not 2 o'clock be better?"

[fol. 779] "Mr. Young: I do not think it would be a bad stunt at all to have your meeting up at the Biltmore. We are accustomed to going there, and we could get one of the rooms upstairs and serve a light luncheon, as we generally have at the Association meetings.

"President Griffith: That was my idea."

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"Mr. Brobston: Is it understood that the Whitehall Company are to be notified to be present at this meeting, and other companies not represented here today?"

"The Chairman: I will try to see the Whitehall Company tomorrow, and see why they are not present. Mr. Herring promised me to be here, personally."

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"Mr. Moyer: Would it be advisable at the present time to get suggestions as to the location of the office that might be engaged? There has been some talk in regard to it.

"The Chairman: You mean in the City?

"Mr. Moyer: Yes, the location of the office.

"Mr. Morron: It is up to the officers, is it not?

"The Chairman: I will tell you, I did hear a suggestion during recess, that it might be just as advisable to have the office at some other place than in New York.

"Mr. Brobston: If you really want an economical situation where they really work, the most economical one is Bethlehem, Pa. I can prove it.

[fol. 780] "The Chairman: That is a splendid place. You will get a large attendance.

"Mr. Brobston: I mean for the working office. You can hold your meetings wherever you please. It will save in the office on telephone calls; it will save money on traveling expenses. It is less expensive to run it there. If you figure it out, the people you send to that place, you send your credit men there and you send your salesmen there to get this information for you. It is the nearest point to all the offices; that is, the representatives of all the companies you mentioned would travel a less distance going to Bethlehem than they would to any other point.

"The Chairman: Would not the office be rather conspicuous in a place like Bethlehem?

"Mr. Young: Very.

"Mr. Brobston: I do not believe so. I do not believe you have got to have a very large office to do this work.

"The Chairman: Besides we might all be blown up some day.

"Mr. Brobston: That might be, too.

"Mr. Morron: I think you have your counsel here, Mr. Brobston, and things of that kind, and it would be very important sometimes to call upon him. Just as conspicuous, too.

"The Chairman: It suits me.

"Mr. Young: Mr. President, the handiest place for the Lehigh Valley would be in Allentown, but I would not want it there.

[fol. 781] "The Chairman: It would not give you an opportunity to get away from there, would it?

"Mr. Young: No, I mean for the very reason that you bring out.

"President Griffith: I think, Mr. Morron's idea of holding it in New York is very good, in view of Mr. Cox's being here. We might have a great many questions to ask him.

"Mr. Morron: And we are sort of swallowed up in the great big life around us.

"Mr. Loeb: It is very much more convenient for the people from

the Adirondacks; the other sixty or seventy thousand do not make much difference.

"The Chairman: Of course this is simply an expression of opinion of the members of the Association, and I suppose the officers will take it into consideration."

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Meeting of the Cement Manufacturers Protective Association Held at the Hotel Biltmore, New York City, January 14, 1916, at 11 o'clock a. m.

* * * * *

"The President: The election of new members. Are there any new members to come before the Association?"

"Mr. Brobston: In that connection, Mr. President, I understood [fol. 782] the president was to appoint a committee to see the representatives of those companies who were not present at the last meeting and the secretary sent out notices not only to those who were present at the last meeting but to all of the companies in the Lehigh Valley District and Maryland District and the New York State District. Under those circumstances I might give you a list of the companies to whom notices were sent and the president could report as to the status of the companies as their names are called. The Helderberg Company.

"The President: I think you have a report to make on that, Mr. Coogan.

"Mr. Coogan: The Helderberg Company? Mr. Covert has been very sick, and I tried to get in touch with him on Wednesday but he has gone away for some little time and there can be no report as to whether he will join, that is, whether his company, the Helderberg Company, will join until he has returned.

"Mr. Brobston: The Alsens Company.

"The President: Mr. St. Claire is at the present time away, but I think we have his thorough cooperation and he expects to return before very long and I expect he will join with us on his return.

"Mr. Brobston: The Cayuga Lake.

"The President: Mr. Rice telephoned me he would be here after lunch. I think he could not get here at 11 o'clock.

[fol. 783] "Mr. Brobston: The Millen Company. As to the Millen Company, I don't know whether they received my notice or not. I didn't know whom or where to send it to and I fear it miscarried.

"The President: They did get the notice and they told me, they would be here. They are not thoroughly decided in the matter they wanted to see the by-laws so that they could submit the same to their attorney. They only received the notice yesterday and I sent him a copy of the by-laws and he is to let me know the first of next week whether they can join.

"Mr. Brobston: The Whitehall Company.

"The President: I think Mr. Coogan has got a report on the Whitehall.

"Mr. Coogan: I had a conversation with Mr. Reading the early part of this week and he told me their attorney, Mr. Glasgow had been away but was to return in a very short time, and consequently they had not been able to submit it to him and get his opinion on it and he said that if it met with his approval he would have no objection to joining, but he said he could not give me any definite answer on it until after he had seen Mr. Glasgow and received his opinion of the matter. I will see him again the first part of next week, Monday or Tuesday and be able to report further on it."

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"Mr. Moyer: Does that provide for an efficient traffic bureau?
[fol. 784] "Mr. President: No, except on that point I will say that Mr. Coogan has very kindly consented to turn over to the Association eight or nine hundred freight books which stand, I believe, about \$265 still on those books.

"Mr. Coogan: Something like \$285 or \$265, I don't know which it is.

"The President: And from those temporarily, we can cut down the expenses of the traffic bureau very materially. Those freights will be kept up from time to time as we receive information from Mr. Coogan."

* * * * *

"The President: And from those temporarily, we can cut down the expenses of the traffic bureau very materially. Those freights will be kept up from time to time as we receive information from Mr. Coogan.

[fol. 785] "Mr. Coogan: By all of the members as I understand it. As I understand it in order to make the traffic department effective it would take quite a few years and a great deal of expense. I don't believe that we could run a traffic department as a thorough and competent traffic department for less than \$25,000 or \$30,000 a year at the very least, so we felt that temporarily instead of any one company sending out notices of changes in freight rates that all companies which notice any error or correction which ought to be made in the freight books, that they would report them to the secretary and the secretary could tabulate them and send them out to the individual companies so that they could correct their books and bring them up to date, and then we would have, all of us have the corrections and receive them at the same time and from the same source.

"Mr. Moyer: One clerk would be sufficient for that.

"Mr. Coogan: I don't think you would require any clerk for that because any of your stenographers in their spare time could easily do that. Now then, I think after a while, after we got going, then we could decide whether we wanted to develop into a thorough, and a real traffic department or not. For the present I think that would be the right way to do it.

"Mr. Lober: I think you are right about that, to go a little slow

[fol. 786] and work it up and develop it gradually, I think that would be the safer plan. And I think you will have plenty of clerical service in the office from the secretary and the stenographers together. They certainly ought to be able to do all the work you have to do of that kind.

"Mr. Coogan: I think so, too, Mr. Lober.

"Mr. Moyer: The Alpha Cement Company have turned over to this Association something which I know to be of very real value, and of large money value, and I think the Association ought to thank them for it.

"Mr. Coogan: It is not necessary. We were advised when we got out these freight rate books, advised by counsel that there was no objection to getting them out and paying for the printing, provided—that is, and distribute them among the different companies—provided we would bill the different companies for the books. We have got to show that it hasn't cost us anything except for the books which the Alpha Company used and that is the reason that we did it that way. Now, we sent them out and if a member company wanted one, the charge for the same would be fifty cents or one dollar and that would continue up until such time as the expense had all been wiped out. We find that we have a great many of those books on hand. By this method of charging for them as they were given out and of also charging ourselves for them when we used them ourselves we have been [fol. 787] gradually reducing the cost of them. We find that we have left between seven and eight hundred books on hand of the different states and I think they stand on our books something like two hundred and eighty some odd dollars at the present time. At the time that they were gotten out the total printing bill on them was a large one, somewhere between nine and eleven hundred dollars. There has been collected, including what we have used ourselves, something like seven or eight hundred dollars, therefore, leaving that balance.

"The President: Any further questions on that subject?

"(No response.)

"Mr. Coogan: I move that the dues for membership in the Association be fixed at .6 of a mill, based upon the shipment of the member companies in 1915, and that the dues be payable quarterly in advance.

"(Motion seconded and carried.)

* * * * *

"The President: Is it the feeling of the members that we want to go to the southern mills and ask them to join us in this Association?

"Mr. Covert: Why not?

"Mr. Swett: The suggestion is that we do.

"Mr. Weaver: Will they file their contracts with us just the same as the western association?

"Mr. Swett: The same as the western.

"Mr. Coogan: I think they could become affiliated with us.

[fol. 788] "The President: Would that be satisfactory to you, take

them as an association of their own for instance, an association of all those companies of the far south, if they reported their contracts as an association themselves to us—because it would be so hard for them to join this Association and meet with us, Mr. Scott, so far away from their own mills, would that then present a satisfactory situation?

“Mr. Scott: In that case I think we would consider the idea of affiliation with those southern companies.

“Mr. Weaver: You would probably join a southern association?”

“Mr. Scott: I think we would join the southern companies.

“The President: Would it not be the same after all, if you joined this and if your contracts were filed with us or reported to this Association, you would then have the full report of those contracts that they make in the south, as well.

“Mr. Swett: That then, of course, would make no difference, as it would be a case of exchange of information.

“Mr. Scott: It would not make any difference, possibly, at all, not any practical difference, but it might make a difference in feeling. The Tidewater Company has been recognized as a southern company.

“Mr. Swett: Mr. Scott, coming back to the Maryland and Virginia [fol. 789] situation, the southern mills are not really or cannot really consider that Virginia and Maryland territory as a southern mill territory, that would be considered an Old Dominion, Maryland and the Lehigh Valley mill territory. I cannot see why those states would not be as well in part of the territory governed by this Association?”

“Mr. Scott: Well, it is southern territory, Mr. Swett.

“Mr. Swett: The New York State mills could raise the same objection regarding the eastern New York and western New England.

“Mr. Scott: I should think that they would.

“Mr. Hilles: Is not Mr. Scott in relation to the southern association like the western association as regards Pennsylvania points?”

“Mr. Scott: As regards certain Pennsylvania points I should think it would be much the same.

“Mr. Brobston: Mr. Chairman: I would suggest that the one point that Mr. Scott has not considered in connection with this Association and that is in getting his credit information for the very section he is directly interested in and that is, namely, Maryland, that he would get very much more information in getting the credit records of the Lehigh Valley mills than he would get in the credit record from the [fol. 790] southern mills except the Security; because all of the companies in the Lehigh Valley district sell, and have credit reports all through the State of Maryland, whereas I do not think any southern companies sell in Maryland at all, which is the district in which the information would be the most valuable.

“Mr. Scott: That is true, Mr. Brobston, but a large part of the information is already in the Tidewater Company's files. It does the largest business in the State of Maryland. Therefore, its files contain all the credit information covering a large part of the business that is done in the State not the major part or anything of that kind, but a large part, larger in proportion than that of any other single company—larger in the aggregate than several companies.

"Mr. Brobston: What I had in mind was this, the value of this Association to you would be in the exchange of the credit information because you are more vitally interested in getting good credit information in the State of Maryland than anywhere else. For instance, you take our company last year, I think, we did possibly some fifty or sixty thousand barrels of business in the State of Maryland, and the year before that we sold eighty or ninety thousand barrels, that is my recollection offhand. Now, if in proportion, the other companies of the Lehigh Valley did the same amount of business in Maryland, the aggregate amount of business done by those companies in Maryland would be a great deal more than the aggregate amount of business done by the Tidewater. The aggregate amount of business is a million and a quarter, I believe, a year, and the Tidewater Company would find that the value of that information that it could get from this Association would be of very great value. I may be wrong, but that is an idea that I had in mind.

"Mr. Scott: The total business in the State does not anywhere near exceed a million and a quarter in the entire State of Maryland of all the companies, not to exceed million and a quarter.

"If you did that proportion of the business and the other companies did a like proportion I would say that the exchange of such information would be of value, but I hardly think that that is the case. And our business in that territory—Mr. Hilles speaks of where we have equal rates along the northern and central, so far as Williamsport—our business in that territory is comparatively insignificant.

"The President: Is it the feeling of the Association that we should endeavor to bring the southern mills into this Association either individually or as a Southern Association, and you will see if not now at some future time, which you care to join?

[fol. 792] "Mr. Brobston: Mr. Chairman, I don't think that it would be of advantage to have the mills south of the Virginia line in this Association. This is a homogeneous Association, one where the information that is got for one is gotten for all of us; and I think it would be very much better for the mills south of the Virginia line if they would have their own Southern Association.

"Mr. Swett: I agree with you, Mr. Brobston. I think the southern mills should have their own association because they will want to come in and affiliate with the Western Association and the Eastern Association just as we have now with the Western Association and have an exchange of information.

"Mr. Scott: Personally, I agree with Mr. Brobston. The business of this entire plan is the matter of exchange of information and we cannot accomplish very much if a few of us file the information and the rest of us not do so.

"Mr. Brobston: As a matter of fact, I think we should go ahead anyhow and let Mr. Scott use his best judgment as to what is to his interest in the matter. I don't think that is a vital point at all. I think Mr. Scott can think the matter over and when he does that his conclusion will be right.

"Mr. Swett: Mr. Scott, I think if you think this thing over, I don't think the southern mills will be considered at all in this matter because this is a territory governed entirely by yourselves and [fol. 793] ourselves in Virginia and the Lehigh Valley mills."

* * * * *

"Mr. Swett: That is my idea entirely, Mr. Scott. I thing if the Western Association really works along the same lines as we are here and the southern mills, of course, ought to organize and [fol. 794] support an association—it will be necessary for them to organize and support an association, they cannot come all the way from Alabama, all the way up to Philadelphia every two or three weeks to attend the meetings."

* * * * *

"The President: That is my understanding. It seems to me that it would be in order for us to see if we cannot stir up the southern mills, and get them to form an association along the same lines as ours and as is formed also by the western people, and we would be then, as Mr. Scott expresses it, in the position of the 'Three Musketeers.'"

* * * * *

"Mr. Twambley: Mr. Chairman, how is the report made out? I believe certain information is called for on the printed blanks, that is, on these printed reports or forms that came in before the formation of the Association and I believe they asked for the buyers' names and the number of barrels and there was some other information there as to price, and so forth.

"Mr. Coogan: Yes, the idea is to give a complete description of the contracts, that is with whom the contract is made and a description of what it calls for, the original amount of the contract and the amount that is left, that is the balance that has not been shipped as of the first of the month and the price at which the contract was taken. It will also show the name of the company that has the [fol. 795] contract. In other words, it would give the information as fully as if you have the contract before you, only give it briefly.

"Mr. Twarbley: You probably are going to get up a regular special form for reporting that on, are you?

"The President: Yes, but I will say that it will be submitted to Mr. Cox to be passed on before it is gotten out.

* * * * *

"Mr. Coogan: Don't you think when inasmuch as the next meeting will be held before February 1st, that we ought to include the credit men at that meeting?

"Mr. Lober: Yes. You are going to have the credit men at all your meetings, aren't you?

"The President: Mr. Lober, I think it will be more or less of a waste of time to have them, that is to have both them and myself here at the same time. I think it is taking up, unnecessarily, the credit men's time and the salesmen's time when the meeting is called for or the meeting is intended to discuss other than the different points which they are interested in.

"Mr. Lober: The question naturally would arise in connection with your general discussion affecting credits, freight rates affecting all the business that you are going to take up, and for that reason you would want all these men present. Of course you run your own business in your own way, the most convenient way and the one that will cause the least friction and the least loss of time, but I have no question at all, but what you will invite and probably direct that these men attend the meeting."

* * * * *

[fol. 796] "The President: Gentlemen, it is in order that we move to adjourn for lunch, as I understand the lunch is now served.

"It was thereupon so ordered, and an adjournment was taken for lunch."

* * * * *

"Mr. Coogan: With regard to the statistics, it seems to me—we are sending out statistics to the Association and we are sending to Mr. Mallory and we will send them to this Association. This Association ought to work out their own statistics, so that if we could get a copy, I think, of what the different companies furnish Mr. Mallory, why then I do not think we should need to ask any more of this Association. You see, we are going to have three people to do work to whom we can send these statistics. Our idea was if we could get, say those and this Association alike, all we need to do is to make two copies and send one to the Association and one to you."

* * * * *

"Mr. Swett: As I understand it, the information that is given to the two associations is a little bit different in form, they are two separate associations and let us treat them as such and keep them separate.

"The President: Keep that as it is.

"Mr. Coogan: This duplication of work we ought to look after [fol. 797] and have it all done at the same time. At the present time, of course, until we get the thing going there may be a little extra work, but there won't any of us mind that and we will be glad to do it to keep busy. As I understand it, we are asking for different information than what the association is asking for.

"The President: Let us see the two reports and keep them separate.

"Mr. Swett: I think we are a little ahead of our time on this topic, anyway.

"The President: That disposes of that question, anyway. Now, is there any other business that you gentlemen would like to take up? If there is, now is the time.

"Mr. Erdell: Where is the meeting to be held?

"The President: In Philadelphia, in two weeks.

"Mr. Erdell: Notices will be sent out?

"The President: Yes, as soon as we get these reports in. I want to see this first time how long it takes to get up these reports, because it will be a little longer this time than in the future. We want to see if we can get this report ready to be used at the next meeting.

"Mr. Swett: As to the manufacturers that are not members of this Association steps should be taken immediately to interest them in the Association and there ought to be someone delegated to attend to that."

* * * * *

[fol. 798] "The President: Is there any other business, gentlemen? Now, while we are taking this up, how many of you gentlemen have adopted the general form of contract as suggested by the Association?

"Mr. Swett: By the trade's relations or the Association Committee?

"Mr. Weaver: As reported by the Committee?

"Mr. Cox: The general association, not this association.

"The President: Yes.

"Mr. Swett: I think very few have at this time, because most of the manufacturers are waiting for their final forms to be put out by one or some individual company.

"Mr. Weaver: I do not know of any individual company here in the east that has put that plan in use as yet, do you?

"Mr. Hilles: Ours are being printed."

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"Mr. Coogan: I suggest to avoid discussion on that subject because it goes pretty close into what we are going to do in the future and I suggest we avoid touching on that.

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[fol. 799]

GOVT. EX. NO. 118

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

VS.

THE ATLAS PORTLAND CEMENT COMPANY et al., Defendants

Stipulation

With a view to facilitating the introduction of evidence in the above entitled case, it is agreed by Counsel for the Government and the defendants as follows:

(1) That without formal proof, it is admitted that, except The Allentown Portland Cement Company, the defendant corporations are duly chartered and organized as corporations; that The Allentown Portland Cement Company, a New Jersey corporation, was duly dissolved and ceased to exist June 27, 1919, as appears by the records in the office of the Secretary of State of New Jersey of that date.

[fol. 800] (2) That without formal proof, minutes of the Cement Manufacturers Protective Association may be used in the manner hereinafter indicated, but no part of such minutes may be used under this agreement and without formal proof, in any other manner. Without formal proof, either party may read either (a) the whole of the minutes of any meeting, or (b) such portions thereof as shall have been first submitted to counsel for the other side outside Court, together with such additional portions as opposing counsel may desire to have read with the portion submitted to show the context or setting of the portion submitted.

In other words, it is agreed that without formal proof, either party may read either (a) the complete minutes of any meeting, [fol. 800½] or (b) such portions as are agreed upon outside Court, but no other use of said minutes in evidence may be made under this stipulation or without formal proof.

(3) Either side may offer either the original or a carbon copy of any letter or memorandum (including interoffice communications and records) without proof of genuineness or objection that it is not an original, unless the other party believes and states that the letter is not genuine and objects on that ground.

(4) Tabulations prepared by the defendants in summary form of matters appearing in defendants' documentary records, may be offered in evidence with the same force and effect as if competent witnesses were called to testify to the genuineness and accuracy of the documentary records and accuracy of the tabulations therefrom, provided the tabulations and these portions of the documentary records from which they are drawn and such portions as have a bearing upon the accuracy of such tabulations are sub-

mitted to the examination of the Government, accountants and attorneys, in New York, and provided further that the admission of such tabulations without proof shall not be construed as precluding either party from introducing any competent evidence with respect thereto that it may desire to introduce. If the Government desires to question the accuracy of any such tabulations it shall have the opportunity of examining the records on the subject and presenting [fol. 801] evidence on the same. It is understood that the Government will be furnished copies of tabulations proposed to be offered by defendants a reasonable time in advance.

(5) That reports of appraisals of properties may be offered the same as if proven by the person making the appraisal, provided such reports set forth are accompanied by a statement of the time and purpose of making the same, and provided further that the introduction of such report shall not prevent either party from offering any evidence relevant thereto, either confirmatory or contradictory.

(6) All grounds of objection not hereinabove waived are reserved.

[fol. 802]

GOVT. EX. NO. 119

Regular Meeting of the Cement Manufacturers' Protective Association, Credit Men's Branch

Meeting held at the home office of the Association, Room 219, Commercial Trust Building, Philadelphia, Pa., at 11 o'clock A. M., Monday, January 31st, 1916.

* * * * *

"Mr. Alker: I would like to suggest that we signify in some way the accounts that are under dispute. In that list of accounts — are under dispute and for that reason have not been settled.

"Mr. Dutton: This is the idea: we have several cases of accounts laying there, for instance, for a little adjustment on freight rates or something which really should not be held against the customer, and I think that is a good idea.

"The president: Bag adjustment and different things like that.

"Mr. Dutton: It might be well to have such notes there with respect to such accounts reported so that we might distinguish between them.

"Mr. Hilles: It occurred to me in that connection that perhaps it might be well to omit all accounts less than \$10 of which on this list there are 121. Just think of it. 121 which I have actually counted below \$10. There were 121 of them apparently on which there were little disputes and not germane to the question mostly in which we are interested.

"Mr. Lober: There are a great many of them that are very small.

"Mr. Hilles: About twenty-five \$1 accounts.

"The President: Do I understand that this would mean the disputed accounts or those ones in which there might be some question as to a small balance on the matter of bags or something of that sort?"

"Mr. Hilles: For instance, if the account showed a disputed balance of \$10 and less, and there was no other account outstanding, sixty days or more old, we would omit that from our report which would make it easier for the bookkeepers in going over our books; [fol. 803] our orders to them would read, 'Omit in making up your report all accounts of \$10 or under.' I am, however, in favor of reporting disputed accounts of \$10 and over.

"Mr. Lober: And have that accompanied by some note or sign or symbol.

"Mr. Hilles: Like 'disp.' or whatever it might be suggested.

"Mr. Lober: Some symbol of some kind that would indicate the account was in dispute or under adjustment owing to some misunderstanding or other.

"The President: Then I understand that all accounts that are below \$10 or are an even \$10 shall be eliminated or is that to be simply below \$10?"

"Mr. Hilles: Eliminate everything below \$10." Then skipping two pages:

"Mr. Lober: Those small things you will find, I am sure in many of these cases, are on the question of cash discounts or discount not allowed, for instance. Some fellow thinks he should take ten days from the arrival of the goods and insists that that is the way he bought them instead of ten days from shipment. I had two or three good stiff fights with our customers during the last couple of months on that very subject. Then there is some other fellow that takes out a credit of \$50 on bags returned and bags have not been returned but are in transit and when they do come there may be some short and he only gets credit for \$48.50 for the bags and there is a balance of \$1.50 and there are all kinds of little accounts and that might really come under the term of 'short payment,' which [fol. 804] may be from various reasons. You will find them constantly and a great many of these little balances of \$1, \$2, \$3, \$4, or \$5 will be for things of that kind.

"Mr. Walter: Those little balances bring out exactly the nature of the customer, that is just what we want to know. If he is in the habit of making settlements and taking off his bags, if he does it five or six or seven times, why of course there we know how to handle him. These little things are the ones that bring up the other ones and it is a good indication to follow.

"Mr. Hilles: Perhaps I might suggest it would be a good thing to have a regulation of some kind as the sentiment of this meeting that we should report—that we should be obligated to report all accounts of \$10 and upwards whether disputed or not, and that it should be left to the pleasure of the members whether they should report those under \$10. If we did that, there is not any doubt but what if I had a man who was notoriously troublesome and unfair in the matter of these subjects that we have under discussion and he

owed me less than \$10 I would be sure that he'd be placed in my report; and the very fact that anything under \$10 appeared on the report would indicate that that fellow was very troublesome to me. If that is the feeling, I think something of that kind put in a motion might meet with our approval.

"Mr. Medler: I do not see why you eliminate any amount. If you keep out of the record accounts of the customers who owe \$9 [fol. 805] and less, you have just a chance to make an allowance of that \$9 to this customer. In other words, you might cut your price \$9 whereas if that was reported it would be a different proposition.

"Mr. Hilles: It might be discrimination, that is what you are driving at, it might be discrimination?

"Mr. Lober: It might be, why not?

"Mr. Hilles: Mr. Medler's point is well taken, it would be much better that we report everything.

"Mr. Medler: That is a way a discount might be forced, if a man habitually holds out \$4 or \$5 and you make that concession to him which he is not entitled to, after that has been repeated you realize that enters into the question of credit of that man, and that is something that we should all know.

"Mr. Matthes: I move that the companies report their accounts as they have in the past and designate any of these small balances that may be disputed items.

"Mr. Alker: I second the motion.

"The President: Gentlemen, you have heard the motion, all in favor of it will say 'aye.' (Ayes.) The contrary 'No.' Carried."

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"Mr. Bacon: Of course, I do not know just what you want, but we thought that would be desirable so we put that column in there. You could cut that out if you did not want to use it or you could use it for something else. Is there any other information that you [fol. 806] would rather have as to the account in the attorney's hands besides what is indicated there, the matter of date and the action?

"Mr. Jiggins: Are we to report that an account placed in an attorney's hands has been paid later?

"Mr. Matthes: I do not know as that is essential. It is valuable information to have but the fact that there had to be action taken of placing your account with an attorney is what you want to get at.

"Mr. Medler: That is all I want to know.

"Mr. Hilles: We do not care whether he pays or not.

"Mr. Lober: The fellow interested in whether he pays it or not is the fellow who owns the account.

"Mr. Medler: If we have to sue a man to get the money we won't sell him that's all.

"Mr. Gilkynson: When he has paid the attorney or the attorney has had to bring suit and he has paid after suit that would be interesting information.

"Mr. Matthes: You are the only one interested in that."

* * * * *

"Mr. Lober: No objection simply that it was regarded at the last meeting, and so decided that they were not interested in the amount but interested only in the accounts that had to be referred to an attorney for collection. The fact that they were referred to an attorney for collection was the important thing, the placing of the account in an attorney's hands.

"Mr. Hilles: Mr. Bacon can leave his column there in having his cards printed and we do not need to fill it out and in case that later he wants to have that included why it will be there ready to be used.

"Mr. Lober: We have on this list that has been handed around here some suggestion which Mr. Bacon might explain further to you."

"Mr. Bacon: This is simply a form that is gotten up, as you might say a proof, which incorporates in unpaid accounts and bills receivable all on the same page. I think that was suggested by Mr. Hilles and I had the proofs made up so that if it meets with your approval we can go ahead with it as it is. Of course this was just gotten up as a printer's proof and means nothing permanent.

"Mr. Lober: It was simply to show what the idea was, as I understood it. Is that so, Mr. Bacon?

"Mr. Bacon: Yes.

"Mr. Sheppard: What is the idea as contained in this?

"Mr. Lober: This will bring everything except the accounts in attorneys' hands on one list and will make just that much less searching necessary, and will also show you if this particular man is a customer of one company and he is giving notes in payment and to [fol. 808] another company he is running an open account; for instance, he may be giving one man notes and he may be meeting these notes promptly as you will see by comparing that list from month to month, he pays them when due or on the other hand he may be giving notes and stringing along indefinitely in renewing them. This information will all be on one sheet here and by a quick comparison you can determine just what his status is and if he is playing fast and loose with you, if he is in one case doing directly opposite from what he is in another."

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"Mr. Matthes: Mr. Chairman, I still do not know what the sense of the meeting is in regard to the reporting of these disputed accounts or marking disputed accounts. Mr. Dutton raises the point that whether it was a bag deduction or whether some other kind of a dispute, he thinks they should all be marked with some mark which would distinguish it as disputed. I think if a man deducts for bags in advance, even though it is contrary to the terms, that should not be considered as a disputed account."

* * * * *

"Mr. Matthes: I move that some special symbol be placed opposite each account that may represent a deduction for bags and a separate, distinct symbol for an account that may represent a dispute in the account."

"Mr. Gilkynson: I second the motion."

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[fol. 809] "Mr. Lober: 'SXD' stands for 'Sacks in Transit,' and 'DNA' stands for 'Discount Not Allowed.' 'SXR' stands for 'Wants to return sacks to offset.' 'CSD' stands for 'Claim Shortage Damage;' they have a lot of them. Their idea in using all these symbols was not to have any columns at all, they would simply have the man's name and the company, the amount and the symbol. The symbol would show the age of the account if there was no question about it; that is, they had these words, six, nine and twelve, you know; they put in here 'Sixty days past due.' As I have already told you, I was strongly urged by Mr. Todd not to say anything about their being due or old or past due or anything else. Then if they did not put those symbols, if they put these CSD or N for notes, and so forth, we would indicate on the account what the thing was for, whether it was an account held up for some reason and so forth. We have here 'CA'—'Collection in Advance, reason given on special request.' If we do not go into that detail, it seems to me, of these symbols, in view of Mr. Bacon's making up his cards, just using an initial for the company, we had better have some arbitrary symbol, such as a star or word, or these paragraph marks or tit-tat-too or double cross.

"Mr. Sheppard: 'Double cross' might be a good thing to give the fellow that has a bad condition.

[fol. 810] "Mr. Gilkynson: That would be very appropriate.

"Mr. Hilles: In making these condensed marks they should be known to us so that we could hand them to our bookkeeping department to use in making up these statements for us, so that they could designate them as desired.

"The President: I suggest you refer to the secretary, and he advise you the notations he wants made.

"Mr. Gilkynson: I would suggest the using of symbols usually found on a typewriter.

"The President: That is right.

"Mr. Lober: One of those that have been suggested is found on all typewriters, that is the double cross. That would be a good one to use.

"Mr. Gilkynson: And the asterisk.

"Mr. Lober: In sending out this dope, these symbols, we want to get quick answers as we want them in for the February list real quick.

"Mr. President: Mr. Bacon will advise you as to that.

"Mr. Bodin: As to one thing, it occurred to me, I would like to point out, that is as to these accounts in attorney's hands. If we are not going to write the amounts, it seems to me that I feel that I would like to have you give us some information as to whether the account has to be sued out, because I feel where there are two men in a fight, why, there is always the possibility that you might be in the wrong. [fol. 811] and it might not be this man that is at fault and the man's credit should not suffer by reason of your judgment.

"The President: I think Mr. Matthes can answer that proposition, he is the one who suggested not reporting, I think.

"Mr. Matthes: It was the sense of the meeting we had in New York that regardless of what the facts were that made it necessary for you to sue a man, the mere fact that you did find it necessary to sue him was all that the other companies wished to know as they didn't like to go on with anybody who would make it necessary for you to bring action against them and if there was any detailed information desired by any member company from the company reporting that account in an attorney's hands, the member desiring the information could take it up with the other member and get it without any trouble.

"Mr. Lober: I think we brought out in that meeting over there in New York, that these lists were not arbitrary, or absolute, they were a guide, that any use of them ought to be made with discretion, no conclusion jumped at. That is, you found the name there, and it would be wise if you were taking any particular action or had been asked for an extension of credit, that you should communicate with the company who had reported that the name had been handed to an attorney, and the reasons could be entirely privately interchanged, you might say, with respect to an inquiry that was perfectly legitimate.

"Mr. Bodin: Then, if that were so, there might be a case even [fol. 812] where they had to be sued out, and his reason was satisfactory and we believed that there was some basis for the action he took, we might possibly take a chance with them without asking the other companies their experience, or you might say, notwithstanding their experience.

"My idea was that if I could get that information as to what basis there was in the claim, that might have a big bearing on whether or not we extended the credit.

"The President: You are at liberty to do that at any time.

"Mr. Bodin: Well, it was brought out so strongly by someone here that they didn't care to have anything to do with anybody that had to be sued, if that was the idea, I thought we ought to know more about it.

"Mr. Lober: That is one personal view taken as to a personal feeling about the matter, but that might very well not be the personal feeling of some other member or other credit men of the Association's various companies, and that information as to the result of the suit, etc., is very easily accessible to anyone who has a legitimate desire to know it.

"Mr. Bodin: If I understand I can find that out, that is all right.

"Mr. Lober: I am sure that if you apply to any one of the members an inquiry of that kind they will gladly furnish you the credit information, immediately on the application.

[fol. 813] "Mr. Bodin: It might be a case of mistaken judgment, that is possible, you know.

"The President: Does that answer your question?

"Mr. Bodin: Yes.

"Mr. Bacon: Do I understand the report comes in as to placing in the hands of attorney are not to have any description or are to have any description of what the action has been, but simply a statement showing they are in attorney's hands, is that it?"

"The President: Yes.

"Mr. Lober: On the first of February all you will have to report, is this is placed in an attorney's hands, those accounts that have been placed there during January, without any report as to the result on previous accounts.

"Just as an illustration of that, Mr. Hilles had an occasion to take up with me one particular account which I had reported as in attorney's hands, and he had obtained some information, I understand him to say he had it intimated that that account was all right, that it ought to be all right, and he came to me asking for that information as to why we placed it in an attorney's hands, and as to what progress we had made with it, and which I gave him. Incidentally I got \$50 from him.

"Mr. Hilles: Very satisfactory.

"Mr. Lober: He still owes us about \$50."

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[fol. 814] "The President: Speaking from the Giant standpoint, we only issue a credit for the bundles of bags actually received.

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"The President: We do not issue credit for what he claims at any time, only what is actually received, the actual delivery or turning over to us of bags by the railroad company.

"Mr. Dutton: Is not that the tendency among all the companies, to handle it in the same way.

"The President: I should say at first blush, it was.

"Mr. Hilles: I would like to know of any who do not?

"Mr. Lober: I have found it has not been practicable or desirable to handle all of those matters in the same way. That is, I have found it better to handle the cases as the particular cases seemed to require. Now, we have a great many of our customers who prefer to make all of their own claims either for loss or damage of cement or loss or damage of bags returned to us; they want to make them themselves; they would not thank us to make a claim for them. We have other customers who very much prefer to have us make the claim and as a general proposition we do make the claim for the customer's account, and credit him when it is paid. However, there may be a circumstance where a man has returned ten bundles of bags and deducted \$50 for the bags, and we get nine bundles, in other words, that allows a charge still of \$5 to remain on the man's account, and possibly that \$5 is all that man owes us. I have credited him at the time I made the claim simply to close the account, to get rid of him. If I didn't collect that claim I would charge it back to him.

"Mr. Sheppard: That is different from the way I understood that it was in the habit of being handled.

"Mr. Hilles: No, I make that our regular practice.

"Mr. Matthes: We handle that matter, I think, in practically the same manner that Mr. Lober has just expressed."

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"Mr. Lober: The only case in which that is done is simply in the matter of straightening up the balance and clearing it off the books, I rather do that than have the balance of \$5 hanging on my books, as usually it is only for one bundle, or at most two, that have not been returned.

"Mr. Matthes: You won't make any claim, Mr. Lober, unless you absolutely have the original bill of lading, will you?

"Mr. Lober: No, not unless all of the original papers are given to us. I won't make any claim unless they are all forwarded to me together with what I may have forwarded to the customer and making the claim in his behalf.

"The President: I do not think it is necessary for any of the cement companies to give a credit except on the bags that they actually receive. I don't think that question is really pertinent to this meeting anyhow.

[fol. 816] "Is there any other question you gentlemen would like to take up?"

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"Mr. Medler: We do not give anything that is done here to the salesmen, do we?

"Mr. Lober: No, the question is whether those attending this meeting—and this will be brought up further this afternoon because there are a number here who will be at the afternoon meeting, the question is whether the minutes of this meeting and the minutes of the afternoon meeting be printed in one and also whether a representative of a company attending this meeting could attend the afternoon meeting.

"Mr. Medler: I don't think so. As far as my information is concerned on this Federal Trade Commission I doubt very much whether a sales manager could attend a credit men's meeting.

"The President: In answering that question Mr. Lober took that up in the last meeting, and it was more or less the understanding that anyone designated by his own company had the right to attend the meeting, whether he operated as a sales manager or a credit man.

"Mr. Medler: That is all right as far as we are concerned ourselves, but are we within our rights in having such people there? We want to avoid any suspicion that there is any kind of a black list or any objection that we are restraining business, and the very minute that you bring in the sales manager, you raise that question.

[fol. 817] "The President: Your point is well taken.

"Mr. Medler: As far as I can understand, our attorney said you

must not have it. And I am not willing to be put in the position until he says otherwise, that we ought to have these things.

"The President: Well, the statement made a moment ago was of course if the executive officer designates any one man, from his company to attend the meeting, I think that that man would have to attend.

"Mr. Medler: Of course, he has got to attend but the executive officer is not above the law. He cannot tell you to send anybody in here to attend the meeting.

"The President: He would not send anyone perhaps.

"Mr. Matthes: If the sales manager should attend this meeting of the credit men would not he be acting in the capacity of a credit man of the company rather than as a sales manager?

"The President: Absolutely.

"Mr. Matthes: Therefore I should think that would overcome Mr. Medler's objection.

"Mr. Medler: I suppose you have all heard of the famous character at the opera that occupied a thousand different positions, but that may or may not apply here.

"Mr. Hilles: Take Mr. Gilkynson and I, for instance, we are in a similar position.

Mr. Medler: Precisely and that is just the point, you were going to put me in jail if I should attend the meeting, that is what it [fol. 818] would amount to, and I'll get out of that by not attending the meeting.

"Mr. Gilkynson: I am here today as treasurer of the Phoenix Portland Cement Company and that alone, and I think that answers the question as far as my company is concerned.

"Mr. Medler: You as treasurer, yes, but you are acting as sales manager also?

"Mr. Gilkynson: You cannot avoid that, where a single man has to cover more than one job, that can not be avoided as I see.

"Mr. Medler: I do not know how we are going to get around that.

"Mr. Gilkynson: That is a pretty hard one. I will say this that the credit information that comes to us does not go to our sales department? I make it a point to see that it does not. If all the other companies will do the same I think that will answer the question.

"Mr. Lober: That is of course one reason for having only one list to a company, for the credit man as he will want to keep that list, the fellow that is the actual credit man, he will want it and he won't be sending that around.

"The President: He is responsible for that one copy.

"Mr. Medler: It is not the copy, it is the information. This information that we get may be a great help or a great abuse.

"The President: Very true.

[fol. 819] "Mr. Matthes: I do not see how it is going to be abused because you are going to be the man that is going to pass on the entire information.

"Mr. Hilles: He is not afraid of that, he is worrying along about us.

"Mr. Medler: I am worrying about the sales manager being an attendant at both meetings.

"Mr. Hilles: Then to avoid that I will resign as sales manager each time I come to this meeting and be reappointed after I get out—reappoint myself.

"Mr. Medler: Each time?

"Mr. Hilles: Yes.

"Mr. Medler: I am not objecting to this you understand.

"Mr. Hilles: I am glad that you put it in that way.

"Mr. Medler: You understand that the situation as far as we are permitted to go in it, we are going and we have to go as a body. There was a great difference of opinion among attorneys around the country on this proposition, and you can go to two different men and each one will have a different idea on the subject as to what he thinks is right, and they are all trying to dope out in advance what the Federal Trade Commission is going to determine and we don't want to get on the wrong side with the Federal Trade Commission, that is sure.

"Mr. Lober: As to the Federal Trade Commission, they seem to be issuing statements down there in Washington that they are not going [fol. 820] to do anything to you if you are conducting your business in good faith.

"The President: I would like to have Mr. Cox's opinion on this point that has been raised.

"Mr. Cox: Why, I have been very much pleased to see how careful you are of it here, at the beginning of everything. I think in this matter you are disturbed about a danger that does not exist. As I understand it, this information as to credit is designed to enable the credit people of each company to determine whom to trust for cement. Now if it is to be kept completely from the sales department, it is of no use at all. I mean, the whole purpose, frankly speaking, is to find out whose credit is sufficiently good to sell cement. Is that not so?

"Mr. Israel. Certainly, you are right.

"Mr. Hilles: Yes, I appreciate that very much, but I would like to tell Mr. Medler the way that we work it is this: that I have a young man up there that is an assistant, and I do not know the orders that come in, we leave that to our salesmen to act under certain strict rules which they are under, which I have formulated, but I could not tell you from day to day unless I looked at the daily report, just what orders I get in. So long as the man does not pass his credit limit, and so long as his account is not any more than so old, it would not come to me. It seems to me that in the sense that Mr. Medler expressed himself, that we could say I was acting there as a credit man and then as a sales manager.

[fol. 821] "Mr. Medler: You are entitled to your opinion.

"Mr. Cox: I was going on to say that being so that it would resolve itself into practically raising the question, the broad question as to whether you have or have not the right to furnish each other this information which you are furnishing about past accounts. If there

were anything, as there is not, in the nature of an understanding amongst you, that the men whose names appeared in the attorney's hands should not be sold or anything of that kind, it would be all wrong of course. But simply to extend the information and then each company having an interest in it, and a perfect right to act on that information certainly as he sees fit, it seems to me altogether plain, that you are entirely within your rights. The thing as I see it is not a question of adopting some artificial means to tell one member of the company something and have him keep it from any other, it is rather a question of whether the company as a company was entitled to this information, and I think that is the whole foundation of this section of the association and perfectly proper.

"The President: Mr. Israel, have you anything to say on that subject?

"Mr. Israel: Well, gentlemen, I would like to make this clear to begin with: I am vice president of the Coplay Cement Manufacturing Company and I attend this meeting in that capacity. I don't think—there is no necessity for any member, if he happened to be an officer of the company and at the same time a lawyer to have sub-[fol. 822] mitted to him a question of law and that he should deliver himself of an opinion on the law, give his advice as counsel under those circumstances.

"The President: Have you anything further to say?

"Mr. Medler: I have nothing further to say. I have given you an opinion of a very able attorney of New York City and I have nothing further to say on that subject.

"Mr. Israel: I would like to say one word and I will say it at this time: Mr. Cox has made this so plain to you that you have a right to exchange with each other this information, but that you have no right to agree between yourselves what you are going to do on the basis of that information. If you agree that if a manufacturer or a customer appears upon the list of 'In attorney's hands' either that or any other branch of the report, if you agree beforehand, all of you, that you won't trust that man after that, then you are clearly outside of your right. But if you reserve to yourself the right to do just what you believe under the circumstances, whatever seems to you proper, why then you are entirely within your right. Mr. Cox has told you the same thing and I have used a few more words to say the same thing.

"Mr. Medler: That is no difference of opinion on that subject—on this sentiment. The only thing is that you are viewing this from one point and I am viewing it from another, you have your advice and I have mine. I have not said at any time that I did not intend to be with you, but there has ben that objection or some statement [fol. 823] of that nature brought up here, an opinion that differs from the opinion that has been expressed by your counsel. I don't wish to intimate that there has been any objection as to the exchange of information as to what has passed.

"Mr. Israel: I think there must be a misunderstanding somewhere.

"Mr. Medler: We are perfectly free to go on and to do what in our own mind we think proper. We shall appear in the credit meeting but not in the sales managers' meeting as according to the opinion given to us by our attorney that is not wise, that question has been thrown under suspicion by his dissenting opinion and until such time as an agreement has been reached where we feel that we are free to go ahead why we shall not take any chances. There cannot be any decision on this question until the powers that have the power of decision make that decision. There is no attorney in the United States can tell what the Federal Trade Commission will decide on that subject. You can guess as well as I and my guess is as good as your guess, but as I say we will be guided by the opinion of our counsel.

"Mr. Israel: Mr. Medler, I can hardly agree with you on that proposition. I hardly think it is right to say that your guess or mine is as good as a doctor's about the diagnosis of a disease.

"Mr. Medler: We are the doctors in this case.

"Mr. Israel: No, it is a question of law, and I think you will have [fol. 824] to agree that the lawyer's opinion is worth more than ours.

"Mr. Medler: That is just the point, we have the opinion of our lawyer in New York and you have the opinion of Mr. Cox. One says one way and the other one says the other.

"Mr. Israel: Perhaps we have not understood it properly, that is I mean the attorney that you speak of has not understood the situation properly.

"Mr. Medler: I have absolutely explained and made it clear to him.

"Mr. Israel: Your point is this, that if the sales managers for instance were to attend a meeting of the credit men it might be objectionable?

"Mr. Medler: Yes.

"Mr. Israel: That is your point, I get your point very clearly. I cannot see any harm in that at all, Mr. Medler.

"Mr. Medler: I don't, but I am advised not to do so.

"Mr. Israel: Because the information as Mr. Cox has explained to you is not given to the credit men, it is given to the company of which the credit man must be a representative and when it is sent to him it goes into the channels of the information of the proper departments of his company because he is here only in his representative capacity. I cannot see that it makes any difference whether the sales manager gets his information here at the meeting [fol. 825] or gets it in strict accord with the rules of his company, through the department of his company where such information is disseminated.

"Mr. Cox: I think I will have a talk with your attorney and straighten that out.

"Mr. Medler: All right, go ahead. He agrees with what you say up to that one point, they all concede that.

"Mr. Cox: Why wouldn't it be a good scheme, if I might make the suggestion, if Mr. Medler feels uncomfortable about that one point, for me to have a talk with his attorney whom I happen to know?

"Mr. Israel: That is very good.

"Mr. Medler: I don't want to vote on a question today, and I am not voting today. I simply came here under instructions, and advice from our attorney, and he has not changed that. However, give me a chance to talk to him.

"Mr. Israel: Surely.

"Mr. Cox: I might say that I have read the opinion of the particular attorney to whom Mr. Medler refers on the by-laws and outline, and what we propose to do, and it is altogether favorable so that I think there must be some element of being at cross purposes about this particular point somewhere, and if we could talk, we could straighten it out.

"Mr. Israel: Go on and do it.

"The President: I suggest we leave this matter in the hands of our counsel, or at least of our attorney for adjustment."

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[fol. 826]

Govt. Ex. No. 120

Regular Meeting of the Cement Manufacturers' Protective Association, Sales Managers' Branch

Meeting held at the home office of the Association, Room 219, Commercial Trust Building, Philadelphia, Pa., January 31st, 1916, at 2 o'clock P. M.

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"Mr. Bacon: I had some cards printed roughly as a printer's proof for the daily report for contracts. Which include the name and address of the purchaser, the work, the location and the freight allowed. This is simply an idea to put a number on the contract as it came in and forward it to this office so it would be tabulated and kept on our record.

"The President: If you have any suggestions to make, we would like to hear from you in reference to them because this is the way it will be that you will be asked to fill them out.

"Mr. McFarland: The idea is to report these individually as the contracts are taken?

"The President: Yes. I will explain that, Mr. McFarland, as soon as we get on to the change of the by-laws which we will take up at this meeting. The intention is to change the by-laws to state that the contracts are to be reported as closed instead of monthly which will simplify the matters very much insofar as the secretary's office is concerned instead of having the contracts all rushed in on him on the 31st of the month or the 1st of the next month, if they [fol. 827] come in as they are closed he can compile his data, and file them and put the facts on his cards and handle it much more easily than if they all came at the first of the following month.

"Mr. Gilkynson: May I ask what this 'price' means, it says 'price' here and 'freight allowed to.' Is that the mill price?"

"Mr. Bacon: No, that is the delivered price.

"The President: That is another thing that I want to take up with you gentlemen, the question of reporting price. Some have been reporting the delivered price, others reporting the mill price, and I think the simplest way would be for the companies to report the actual delivered price including the freight and everything.

"Mr. Swett: I didn't get that, Mr. President. You mean the delivered price or the mill price?"

"The President: The delivery price including the freight and packing and any other charge on the same line."

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"Mr. Moyer: The only thing that I thought in regard to that 'freight allowed to' whether there was any real necessity for putting that in there. I have particularly in tidewater deliveries, it would make it very difficult to put in the freight allowed as the freight varies as to water delivery points. That is, we figure New York City as the freight from Hudson to New York and then we would pay a [fol. 828] certain amount for lighterage and that might vary, and it would be impossible to tell what the freight allowed would be as a very large proportion of the water delivery freight is prepaid.

"The President: That is not one of the essentials of the request, that is only put down there in case we can at any time arrive at a figure.

"Mr. Swett: It means a lot of work. If we give our price, then that shows all that is necessary if we indicate the price that we get.

"The President: Yes, that is only intended to be put down in case they should be requested, it is not essential to the report.

"Mr. Moyer: If you know that, then your own secretary can make that from the freight rate books as well as we. I move that that be stricken out.

"The President: Would you mind it being left there for the simple reason that we might need it?"

"Mr. Moyer: Hardly any necessity to put in something you can just as well get along without.

"Mr. MacFarland: As I understand the explanation of the secretary that all he wanted was in where the 'freight allowed to' is, simply to show the destination.

"Mr. Israel: No, the point of delivery, just the point of destination.

"Mr. Moyer: That is shown here in the location of the work.

"Mr. Bacon: I would like to get that point of delivery as to your [fol. 829] price, your price is based on a certain point, that point I would like to get so that I can tabulate my cards on that point.

"Mr. Moyer: Instead of the words, 'freight allowed to' say 'delivery point.'

"Mr. Bacon: Very good.

"The President: Location of the delivery point and the price?"

"Mr. Bacon: I understand that is to be 'location or delivery point?'"

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"Mr. Ackerman: If this card is approved in the final form in which it is now it is to be sent to every one of the companies?"

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"Mr. Coogan: I want to bring to the attention of the Association the fact that the Western Association has put in a system which greatly simplifies the work of the central office: They have sent out forms on a very thin onion skin paper, and they ask you to report your contracts on that form, and they furnish you a binder for that form, and ask you to send in so many copies of your contract obligation. Now then, they can be distributed to the members without any work on the part of the Association office other than the tabulating of the information on his cards. In other words, it does away with all of the printing and it puts in the hands of each member the [fol. 830] contract from each company and he has a binder where they can be filed and kept in shape. It seemed to me that system would enable us to get the information out to the members very much quicker than if it has to be sent in individually, tabulated by the Association and sent to the printer, and I believe before we decide on having many of these forms printed, that it might be well to investigate that system and see whether it would not simplify the work.

"Mr. Bacon: Do I understand that you just file in that folder, the original memorandum you get from the company?"

"Mr. Coogan: Yes, sir.

"Mr. Moyer: There is no report then sent similar to the one that you intend sending out at the next report, that is sent out which will be a little different than this?"

"Mr. Coogan: Yes.

"Mr. Moyer: No report of that kind?"

"Mr. Coogan: No report of this kind, but you would have before you the full list of the contracts made by the Alpha Company together with the balance due and all the other information and you would have that come on here in our own office, and the secretary would be furnished with a sufficient number of copies to enable him to distribute them and keep a proper report of the number.

"Mr. Moyer: I understand each of the companies' reports sent out will be tabulated and all of the contracts as filed by the different members will be made out by States, and then by towns, and under [fol. 831] each town will be shown the contracts, taken by each member as reported. The object of that, as I believe, will be so that we can quickly ascertain duplications, therefore protecting ourselves against the purchaser buying from several companies for the same job. Now, it would seem to me that the scheme that they have out west is a little bit weak in that particular: That you would have to go

all over these sheets of the different individual members, and check each contract by it, with your own contract, in order to ascertain if you had any duplications; whereas under the system that is proposed in reporting by this Association, we would know obviously, right at a glance, whether there is any duplication or not.

"Mr. Swett: Why, Mr. President, that Western Association of course we all understand, that they have no salaried secretary, and that is one of the reasons why the individual companies do all the work. As I understand there are twenty-one copies, whereas it might be a very easy matter for some manufacturers to send in twenty-one copies to the Association, I imagine it would be more or less of a hardship on some of the other members. But inasmuch as we have an organization here, and a force, why not just send them the data and let that data be compiled in this office?"

"The President: Have you anything further to say on that question, Mr. Coogan?"

"Mr. Coogan: Only what I have said, only in the interest of economy.

[fol. 832] "The President: I think he had better try this, at least for a month."

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"Mr. Cover: Mr. President, it strikes me that a very important feature of Mr. Coogan's suggestion if we adopted the western plan would be that that would give us every condition of the contracts, the terms and everything else, and I imagine that some companies are going to have different terms than others, and sometimes the discount and some other features of the contract would have a very great bearing on the contract, and if you had an exact copy of the contract this way, that might require a great deal of work on the part of the separate companies, nevertheless it would be furnishing a perfect duplicate of the contract in all respects.

"The President: I think that is borne out there, Mr. Cover, by taking the wording on this little slip.

"Mr. Cover: You give there the essentials only.

"The President: That is all you get on the plan that Mr. Coogan speaks of.

"Mr. Cover: Don't you get a copy of the contract itself?"

"Mr. Coogan: No, just a list of the contracts.

"Mr. Cover: I misunderstood you then.

"The President: Any further remarks on the subject of reporting contracts?"

"Mr. Coogan: I have none. I would like to know whether it is the intention to include export contracts in the report of contracts?"

[fol. 833] "The President: I so understand it.

"Mr. Coogan: I understand it too, but I think, Mr. Secretary, that I included some export contracts, I didn't see them on here though.

"Mr. Bacon: Yes, they are right there.

"Mr. Israel: That is what might be termed a last item?"

"Mr. Bacon: Those were put in there because your delivery point

was New York. Unfortunately it got mixed up with the New York contracts.

"Mr. Coogan: All right, I see, I will put it in as export hereafter.

"There is one other point I want to bring out in reference to how we should tabulate these contracts, and keep a list of the contracts and everything of 1,500 barrels and over in a different list. All I sent in on account of the limited time, was simply a list of the contracts. Now, as I understand it, everybody should report every contract which extends beyond fifteen-day delivery. Does everybody understand that?

"The President: I think that is a general impression among all the members if not, they will so understand it now, I am sure.

"Mr. Coogan: In the report of February 1st I have a list with me now of all the contracts which I did not report on my previous list, and can either file them now or file them as of February 1st which I suppose will be the proper way to file them.

"The President: I think it is the general understanding, gentlemen, that anything that carried beyond fifteen days delivery, no matter whether it is a car or not is to be reported to the secretary. Is that the understanding?

"Mr. Twamley: I was under the impression that thirty days delivery was the limit instead of fifteen.

"The President: The Association of Portland Cement Manufacturers is very anxious indeed to have the uniform quotation brought out which is for immediate acceptance, fifteen day delivery—fifteen day shipment. Did you get a copy of the Association's suggested contracts?

"Mr. Twamley: Yes, I have a copy of them.

"The President: That is on a fifteen-day delivery, Mr. Twamley.

"Mr. Twamley: I was under the impression it was thirty.

"Mr. Dutton: Mr. President, that uniform quotation rate has been generally adopted, hasn't it?

"The President: I think a good many of the companies have adopted it as being a very good plan for quotation.

"Mr. Macfarland: Mr. Chairman, have we got this matter in shape now so that every one understands it? I think it would be in order to pass a motion to the effect, that the secretary prepare his small card and large sheet as suggested in these various changes, sending them out to the individual members with a full letter explaining just how we would like to have them reported. I will make that as a motion.

"Mr. Hilles: I second that motion.

"The President: Gentlemen, all those in favor of Mr. Macfarland's motion will say 'Aye.' (Ayes.) Contrary, 'No.' So ordered."

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"Mr. Coogan: I might say further, that I think that this Association starting in new ought to start in from this base and gather their statistics getting all the information from the member companies

rather than taking over the statistics from any one who has been preparing those statistics in the past."

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"Mr. Coogan: That is more or less of a personal matter between Mr. Mallory and the various cement companies. We will adopt our form and send it on to the member companies and if they wish to advise Mr. Mallory that he is to continue handling the statistics in the shape that he has been handling them, that is up to the individual companies and Mr. Mallory, as that is a personal matter between them.

"The President: If agreeable, I should like to appoint a committee of four to draw up these forms of reporting statistics. I would like to appoint Mr. Coogan, Mr. Swett, Mr. Moyer and Mr. Macfarland.

"Mr. Macfarland. Mr. President, I am going to be away for a month, starting tomorrow, and I would prefer that you put someone else on that committee for that reason. I am not desiring to [fol. 836] shirk any work at all but I will not be able to give it any attention.

"The President: I will let the committee stand as appointed. If you gentlemen can get together on this rather shortly and have this form in shape by the latest at the end of this week, it would be very much appreciated.

"Mr. Moyer: I understand Mr. Swett is going to be in New York this week, so I think we can arrange to get together there.

"Mr. Swett: Tomorrow?

"The President: Seriously, gentlemen, I should like you to get together as soon as possible so that the forms can be gotten out.

"I would like the secretary to read a letter from Mr. Macfarland.

"Mr. Bacon: 'Charles W. Bacon, Secretary' (reading).

"The President: I have asked that to be read because there was a little misunderstanding in reference to reporting prices. We have now gone over the matter so it is thoroughly understood we are to report delivered prices on all contracts."

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"The President: About a week from now.

"Mr. Swett: What New York State mills are not members of this Association at the present time?

"The President: We have not heard definitely from Helderberg, Glens Falls, Knickerbocker and Alsen; four.

[fol. 837] "Mr. Swett: Really it is the Alsen and the Helderburg that have not joined.

"The President: As soon as we talk to them I think they will come in.

"Mr. Swett: I suppose there have been people to see them about it?

"The President: Yes. There is a very interesting letter from Mr.

Law, and at the request of Mr. Swett, I sent a copy of the constitution and the by-laws to Mr. Law and also to Mr. Hardy and have received a letter from Mr. Law acknowledging receipt of it, which the secretary will read.

"Mr. Bacon: Kingsford, Tennessee, January 24, 1916 (reading).

"The President: I thought you gentlemen in particular would like to hear that because if they follow the same lines as are being followed in the west and in the east, I think we will have a chain of associations that will give to one another the information that is applicable to all these sections and it will bring us very closely together in all our business relations: Namely, the matter of credit, contracts and statistics both in the west, east and south.

"You have a letter from Mr. Coogan in reference to our freight books and you may now read that, Mr. Bacon.

"Mr. Bacon: 'Mr. R. E. Griffith, at Mr. Coogan's request we forwarded to you today—— (reading).

"The President: I would like to say in that connection, if you gentlemen wish any of the freight books, we would be very glad [fol. 838] indeed to furnish them to you free of charge. As soon as the books which we have now are exhausted we will get them out with the Association cover on, which will give you your freight rates brought up to date and then the secretary will notify you from time to time of any changes in the freight rates as he receives it from the companies and the railroads.

"Mr. Cope: Mr. Chairman, these corrections, wherever they may come up, as I understand it, from time to time, they will be sent to us by the secretary of the Association.

"The President: Yes, by the secretary.

"Mr. Cope: And he will be able to get them?

"The President: We have asked Mr. Coogan, who is very closely in touch with the different changes, to advise this office at once, and as soon as he has advised us, we will advise you as promptly as we can, I presume 24 hours after we get the information it will be in your hands, of any changes in freight.

"Mr. Coogan: We have felt until the Association gets in working order that we had better continue notifying everybody for say another month, at least, and by that time things here will be in such shape as to handle it from this office. So until then, gentlemen, we will continue to notify you of all changes. In connection with those freight rate books we believe that with the corrections that we have made on them that at the present time they are correct. I guess practically all of the companies are using that book as a basis and it seems [fol. 839] to me that if any company notices any difference from what is shown in those books there that the secretary of the Association, or for the present if you want to do that, notify us at once if there is any error, we are sure we have a correct list of the freight rates as they are.

"Mr. Swett: It is further understood that the member companies use these association freight rates until they are notified of the change in the rates by our secretary regardless from what source they secure information as to a change in rate, or from Mr. Coogan.

"Mr. Coogan: For a little while. There is one member that I think I made a promise of a complete set of freight books, to give them to him, I claim I left them in his office, but he says he did not get them. However, there is another set corrected right up to date which out to go to him in the next day or two.

"The President: There is another question I was asked to bring in reference to including in your quotations the question of freight rate. A good many of the companies do not put in the question of the freight rate in basing the price. If there is an advance in freight or a reduction of freight it might be just as well for the freight rate to be stipulated so they can either advance the price on delivery or reduce it, and I would like to hear any arguments in reference to it.

"Mr. Twambley: In connection with that I noticed in the freights which the Association of the American Portland Cement Manufacturers [fol. 840] furnished us, a practice recommended that there was no provision in any of those forms on the quotation forms for an advance in the freight. I spoke to one of the committee who drafted the form about it and he told me that it was discussed and decided that the manufacturers would take a chance on that. If the freight went up he stands a loss; if it went down he would take the gain. I have been accustomed to make quotations subject to change reductions that have been taking place for the last ten years or so, that there have been more reductions than advances, but it seems as though that might be the reverse from now on, that the freight rates will rise again.

"Mr. Coogan: Gentlemen, I think there is a number of reasons why it is not a good trade practice to include such provisions in quotations, and I think the Trade Relations Committee of the Association gave those matters very careful attention, and I think before we do anything with that, it would be well to take it up with the Trade Relations Committee of the Association, and I believe you will learn the reason for their not putting it in was probably a good reason. Therefore I would recommend that we take no action, and I make the motion that no action be taken on the matter.

"Mr. Swett: I second the motion.

"The President: I think you might just as well drop it and not put it off, not put it up to the Association so that it would have to [fol. 841] come up later, and if agreeable to you gentlemen I would rather table the whole thing because I do not think it is within our province to go into that. I think that is a matter that the Trades Committee of the Cement Manufacturers' Association have gone into thoroughly and have acted on it, evidently, very wisely from a thorough understanding of the subject.

"Mr. Twambley: That is the way I view it, too.

"The President: If that is agreeable that is a question that we won't raise.

"Mr. Coogan: Then I withdraw that motion.

"The President: There is a letter from the Glens Falls stating that Mr. Coogan will explain to the members his reasons for not caring to report his contracts just at the present time.

"Mr. Coogan: I think you will find that explained at the other meeting. Mr. Bayle talked to me and explained that until such time as the status of the other New York mills was clearly defined that he would not care to report his contracts. And I told him I thought his stand was well taken and that there would be no disposition on the part of the Association to criticize him for not filing his contracts until we have the New York State situation settled.

"Mr. Cover: In that connection, Mr. President, I think it should be explained to all of you present that that is the same reason why the Security Company has not, so far, filed its contracts. I stand [fol. 842] ready to come forward and bring everything up to date the minute that the other companies join the Association, and do likewise, but is or may be perfectly clear to you in the start that that is the only condition under which our company could come in at this time. I do not know whether it is proper for us to even stay in. It is up to you gentlemen, I do not know whether we should take the benefits of this Association in the meantime.

"The President: It is perfectly proper, Mr. Cover, and we thoroughly understand your position and we are willing to furnish you the information that you have with the distinct understanding that you need not furnish your contracts at the present time.

"Mr. Cover: I so understand this from the President that this was the understanding, but I wanted to be sure that we all understood it and that I should not be put in the embarrassing position of having taken the benefits here of your Association and you not know the conditions under which I was here and they not be agreeable to you.

"The President: I think we all so understand it and we all appreciate your feeling in the matter."

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[fol. 843]

Govt. Ex. No. 121

Special Meeting of the Cement Manufacturers' Protective Association,
Credit Men's Branch

Meeting held at the home office of the Association, Room 219,
Commercial Trust Building, Philadelphia, Pa., at 11 o'clock A. M.,
Monday, February 28th, 1916.

* * * * *

"Mr. Medler: On reading over these minutes, I am afraid that some of the remarks I made at the last meeting might be misconstrued, as what I said was intended in a general way only. Now, there has never been any objection on my part to a sales manager, or anybody else connected with a cement company, attending a credit men's meeting, so long as the discussion was confined to credit subjects. We did not seem to make ourselves clear to each other at the last meeting, in the short time that we had this under discussion,

which of course was very unfortunate. There is no objection on our part, as our minds have always been in accord, and there is not any reason to change our minds on this subject. We have agreed from the start.

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"Mr. Cox: Mr. President, I think in the minutes of the last meeting, I had some duty to perform in connection with those remarks; and I might say now that I have made inquiries as to the supposed legal point, at which they were directed, and find that it had to do, not with the personality of the one attending the meeting, but what he said; that is, it was not whether a man was a sales manager, but whether it was sales talk, and the ideas that underlay that as to the law, were exactly in accord with the ideas, on which we have been proceeding here, and the whole thing has straightened itself out."

* * * * *

"Mr. Bacon: I have some communication from Mr. McGuire, the [fol. 844] secretary of the Western Association, I would like to read."

* * * * *

"Mr. Cover: I have a matter to bring up I think previous to that, in connection with this discussion. It has been my understanding, that it would be the rule of the Association that all its members should be careful about giving out information that we acquire from these lists. We have been very much embarrassed in two different instances, recently, by several large customers of ours, having been told by another company that we had reported them to the Association. I think that is rather a breach of faith, to say the least of it, and certainly very bad policy. It would get us into trouble sooner or later, but now I do not know what to do about that, unless in making up our lists, to disseminate among the members, that we would designate the companies by some numeral or some key, of some kind, so that the name of the company would not appear prominently all the time on the list. Still, that would not cure the trouble, if anybody in any company sees fit to go out and tell somebody that they have been reported. It would help, it seems to me to be a check on publicity, it would help the list, not to have the name of either company printed thereon, if that list falls into the hands of somebody, who ought not to have it. We discussed that subject a great deal at the last meeting. If it got into the hands [fol. 845] of somebody who ought not to have it, if they did not have the key to those companies, they would not know how to tell who it was. It is just a little check on publicity.

"The President: I think this point is very well taken.

"Mr. Cover: I think that is carried out by the Builders Supply Association of Pennsylvania, with headquarters in Philadelphia. They have a system of numbers and different colored papers, and different things, and it seems to work very much to their satisfaction;

and I thought it might be well to suggest to our secretary, that he get in touch with those people, and see what their system is, so that at our next meeting he might be able to report to us, whether he thinks it has any features that it would be desirable for us to adopt.

"The President: How about that?"

"Mr. Israel: Mr. Cover, your point is, all that is essential is that a certain concern that is behind in its payments be reported. It is perfectly immaterial what company reports the delinquent debtor, and there is not any reason in the world why the company that did report him should be said as having been the one to report him. You are perfectly right. Now, I get Mr. Cover's point; is there not some way; I think it is very important, and you are perfectly right. If, for example, your company gives information which is valuable to others, it is a sort of expressive of very poor kind of appreciation, to use that information to your injury.

"Mr. Cover: It was done in two cases to our injury, by another [fol. 846] company, which has large business relations with the same people that we have.

"Mr. Israel: I see the point.

"Mr. Cover: I think it was done to our detriment, but whether or not, it was a bad thing to do.

"Mr. Hilles: Would not Mr. Bacon's key be sufficient, if he has a key? For instance, he may have a letter D for Dexter, but it might also stand for some other company. It might stand for the Dragon cement, for instance. You might have "A" for Alpha, and Atlas. He has a letter he already uses, to designate each company. If he puts the letter on the list, and we all have the key, is not that sufficient?"

"Mr. Lober: I do not see why we need anything but a letter, symbol, or number, to represent companies, and each responsible party in the company's interest could keep that key to himself.

"Mr. Cover: I would like to direct the attention of the secretary to the association I mentioned, which he can easily get in touch with, within a couple of blocks, and he can find out whether that system can be adopted to our needs or not.

"Mr. Bacon: Give me the name again, Mr. Cover.

"Mr. Cover: I think it is called the Pennsylvania Builders' Supply Association. I am not sure of the name, but I can tell you where to find the man. Ask for Mr. J. L. Durnell. He is with the Knickerbocker Life Company, in the Finance Building.

[fol. 847] "Mr. Lober: On the 24th floor.

"Mr. Cover: I think he is the secretary or vice president of that association, and he is thoroughly familiar with the committee.

"Mr. Lober: Mr. Israel's suggestion that we do not need names or symbols, or anything of the companies reporting, would cut out one feature that we had in mind in this plan, and that was that seeing a name of a debtor reported here by a particular company did not necessarily mean that that account was bad. It might mean one of a number of things, and our idea was that before jumping at any conclusion, that it would be wise to communicate with the company

reporting. We have no name or symbol, we will not know with whom to get in touch, excepting by asking Mr. Bacon, and that would mean a delay, of course, excepting those who can reach him easily by telephone.

"Mr. Israel: Cannot we all reach him by telephone?"

"Mr. Lober: We can.

"Mr. Hilles: Not easily.

"Mr. Matthes: It would mean expense.

"Mr. Hilles: I am in favor of the symbol.

"Mr. Israel: A symbol idea would do it, I think.

"Mr. Lober: I think having a symbol would be much better than printing the name in.

"Mr. Cover: We might know the symbol, but everybody else in our company would not know it, I think.

[fol. 848] "The President: In other words, Mr. Cover, I understand you would like instead of the name being printed, that a key be furnished to each credit man, who was to be responsible for that key.

"Mr. Cover: Or each man that attends the meetings.

"The President: That is up to the company whom they designate, and the key can be furnished to that man, and him only, and the symbol be put on each one of the reports, so that the man knows exactly which company is reporting.

"Mr. Lober: I think the easiest thing would be to give each company a number, and No. 1, for instance, would be for Alpha; No. 2, so and so, and straight through the list that way; and if you wanted to mix them up, so that it would not be absolutely alphabetical, that would be a perfectly easy thing to do. Of course, if we had them absolutely in alphabetical order, it would be an easy matter for anybody seeing that, and guessing that, to figure which particular company reported the names.

"The President: Does that answer your question, Mr. Cover?"

"Mr. Cover: Yes.

"The President: Is that motion seconded?"

"Mr. Israel: I second that.

"The President: You have heard the motion. All in favor will say 'aye.' (Ayes.) All to the contrary 'No.' Motion carried.

"Mr. Bacon: I understand the next report to be gotten out is to be by symbols and the symbols are to be numbers, and I shall write to [fol. 849] each company requesting them to reply designating the man to whom I am to mail the key.

"Mr. Israel: Yes.

"Mr. Lober: How about the lists to be furnished to Mr. McGuire. Is he to be furnished with a copy of the key? He will have to be one added.

"The President: I would rather not have to go outside of our own family at the present time. If they want any information, they can easily call or write Mr. Bacon.

"Mr. Israel: Yes, sir.

"Mr. Bacon: Do I understand it is the opinion of the Association that I should send ten copies to Mr. McGuire at the time?"

"The President: Yes, I think it was.

"Mr. Israel: But not the key.

"Mr. Bacon: There is not any key this month.

"Mr. Israel: Or hereafter?

"Mr. Hilles: Before we pass from this subject, I want, without taking any more of the Association's time than is necessary, to express my sympathy with Mr. Cover's remarks, and state that I consider the complaint he has made is one that indicates most unjustifiable and careless action on the part of some one, or more cement companies. It is a most reprehensible proceeding.

"Mr. Lober: I agree with that remark.

"Mr. Israel: I think that is the sentiment of every person here.

"Mr. Cover: I could read you what the party offended says about it, if you would like to hear it. His reputation is assailed. He is a man whose note a good many of you would be very glad to take.

"Mr. Israel: Exactly. It ought never to have happened."

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[fol. 850]

Govt. Ex. No. 122

Regular Meeting of the Cement Manufacturers' Protective Association, Sales Managers' Branch

Meeting held at the home office of the Association, Room 219, Commercial Trust Building, Philadelphia, Pa., February 28, 1916, at 2 o'clock P. M.

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"Mr. Bacon: The proposed amendments to the constitution, discussed at the meeting on January 31st, last, and voted on by letter ballot, were defeated. The proposed amendments to the constitution, Article 3, page 5, and Article 8, page 7, were defeated by 13 to 3. I would like to speak about the matter of freight rate books. You are all familiar with the form in which they are made up, and in the way of corrections are made by pen and ink. Some of the books are quite lengthy, and there are a great many corrections to be made in them, it takes some length of time. I believe it was the desire of the Association that clerks in this office should do that at odd moments, and I would like to say it is almost impossible, certainly impractical for some time. We have had a clerk here for ten days who did nothing but correct books. We have several States corrected, and we have sent out so far sixty-three books fully corrected to date. We expect tomorrow to have somebody else here to take over that department entirely and just keep correcting books, so that I hope he will be able to furnish everybody, as the requests come in, with freight rate books promptly. We have filled all the orders at the present time, except one, which just came in last week. In the future, I hope that we will be able to give them to you very promptly and correctly. I think that is all, Mr. Chairman."

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Mr. Coogan: Under the head of new business, we have all been furnished with a copy of the report as of January 1st, and today, before you go out, the secretary will distribute the copies of the reports of February 1st. It would seem to me that now we are in shape and we are getting this information, that the different members ought to study those sheets very carefully. I think you will find some very interesting facts on there. The idea of this Association is to give the manufacturer information which will help him to carry on his own business, and I think on these sheets are a great many, well, duplications, and a great many other things, which it seems to me that if this Association is going to do any good, each individual company ought to get to work and get all of the information which this Association gives them, that they possibly can.

"Now, in regard to statistical information, the Association was not able to get their information out, or requests for information out, until about the 14th or 15th, I think, Mr. Bacon?

[fol. 852] "Mr. Bacon: About the 15th.

"Mr. Coogan: And we are going to try to get the requests for that statistical information out from this office, so that it will reach the member companies by the first of the month; that is only a small matter, that of statistics, so far as this Association is concerned. Our mills are close by, and if everybody will go to a little trouble to send in that information promptly, we ought to be able to tabulate it and get it out to the member companies by the 5th of the month, and if we do that we will get it out before the contract information and credit information begins to come into the office, and clean it up before anything else comes in; and I am sure that all the members would like to have that statistical information just as early in the month as they can, and I hope everybody will let us have it just as promptly as they can. Was there much delay in sending in the information about contracts this month?

"Mr. Bacon: Why, some. The last list I received was on the 17th of February.

"Mr. Coogan: Which was that? That was not the Knickerbocker, was it?

"Mr. Bacon: No. The Knickerbocker came in on the following day.

"Mr. Coogan: That is another thing that we ought to try to get to the secretary as early as possible. We were not able to have this information. Part of the delay is in the office, on account of the system, as Mr. Bacon explained it; but even at that, some of these reports we did not get in until the 15th or 16th of the month. It [fol. 853] seems to me we ought to get them in here by the 5th or 6th at the latest, and I hope everybody will try to get it in, because the earlier we have it, the more good it will do us.

"Mr. Bacon: While we are on that particular point, Mr. Griffith and myself have sort of formed a sheet for the return of all contracts at the end of the month. It has on it a column for the member, the delivery point, the purchaser, the price, the total and balance due. I would like everyone to look at it, if they will, and say

whether they believe it would be a permanent sort of thing to make out (handing forms to members).

"Mr. Coogan: I would like to make a suggestion so far as the different forms are concerned. It seems to me that if two or three get together and decide on what they think is the best form, and send it out, if our experience shows that it is not the right form, we can easily change it. If we discuss it here, I am afraid it might take up a long time to get our information.

"Mr. Cover: Mr. Chairman, I move the chairman be requested to appoint a committee of three for that purpose.

"Mr. Coogan: To work in connection with the secretary to make up the forms?

"Mr. Cover: Yes."

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"Mr. Coogan: Now, gentlemen, you will notice from the first [fol. 854] report for the 1st of February, there has been an improvement made in that the contracts at the different towns are all listed under the one town. Now, that is going to be very easy for you to find any duplication; going over the previous report that was out we noticed a great many duplications. I suppose other people have also noticed duplications, but so far as I know the attention has not been called to any of these duplications. I think that if anybody noticed duplications, whether they affected his interest or not, the information should be sent on to the secretary, so that he can notify the companies that are interested, and have them make use of the information."

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"Mr. Bacon: Do I understand you, Mr. Chairman, that when I receive a notification of the duplication of contract, that I am not to send it to all the members, or just the members interested?

"Mr. Coogan: Just the members interested; but when you get the report from the members interested that one of them has cancelled their contract, that information ought to pass along to all the members of the Association, but until such time as it is settled, it only ought to be between the companies interested. We can decide that later on, whether it had better be done at the meeting, or by letter. I think, personally, it would be better by letter, so that we could have our meetings very much shorter, and have the information all in good shape."

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"Mr. Brown: There is no reason in the world why reports should be coming in here on the 17th. It is just as easy to have your work in here in such shape, that when the first of the month comes it is pretty nearly done. You can finish it and send it out at the most, three days after first. I know that we do in our office. We have all those details in our hands by the fifth of the month, and have to

wait until the second before we can start, because we do not get the final reports from our outside mills until then. It is simply a matter of system in your own offices, and then system here, and we will get our reports very promptly. Now, you cannot get these reports, and the credit men's reports as quickly as you can the statistical, and it seems to me that we ought to have that statistical information back into our hands summarized not later than the fifth of the month or the sixth, the furthest."

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[fol. 855]

GOVT. EX. No. 123

Regular Meeting of the Cement Manufacturers' Protective Association, Credit Men's Branch

Meeting held at the home office of the Association, Room 219, Commercial Trust Building, Philadelphia, Pa., March 20th, 1916, at 11 o'clock A. M.

* * * * *

"The President: Now we are open for any new business. I think Mr. Jiggins has a few remarks to make in reference to the five cents a barrel discount.

[fol. 856] "Mr. Jiggins: Mr. Walters has the card and Mr. Walters will no doubt read it and explain it to you.

"Mr. Walters: This is a little device of the Lehigh Company, which the Lehigh Company seems to have gotten into the hands of someone that has gotten into the hands of Mr. Jiggins, somehow; I don't know whether anyone else has seen it or not. We adopted it a short time ago and enclosed with quotations that are sent out and we are enclosing it with invoices and with statements in some instances, and we are also sending it out with some letters that we write where the letters bear on the discount proposition.

"If I had known that this question was coming up, I would have brought a few of these to pass them around; but Mr. Jiggins handed it to me since I have been in the room.

"We start the card by putting the word 'Discount' at the top of it. And under that 'Five cents per barrel for full payment within ten days of invoice date. 30 days net.'

"Now the body of the card reads this way:

"Discount of 5 cents per barrel on cement is a most liberal allowance. This discount is offered to make it of advantage to the dealer to pay invoices within ten days of the date rendered—not ten days after the date of arrival of cement. Discount cannot be credited if payment is made after the lapse of the ten day period. Fairness to [fol. 857] all customers obligates strict adherence to this rule; injustice of any other course is obvious. Payment may be made before

the arrival of cement with full assurance that all claims will be promptly and fairly handled.'

"That of course is our wording of it. We, like all the rest of you, no doubt had some trouble about customers sticking closely to the ten day period in discounting; and we have tried in every way that we could, to educate the customer to the exact meaning of those terms. In a number of instances the customer insists that he must get his discount ten days after the car gets there and the cement is unloaded and counted up and all that. We have tried to disabuse their minds on that point. Of course, a good many object to paying before they see the goods; and we have tried to tell them that we will be real good to them in cases of that kind and see that they are protected; and of course any responsible company will do that for its customers. But we have also tried to appeal to their sense of justice and fairness in the matter by telling them that it would not be right to give one man the benefit of the discount and make another customer pay strictly within those terms. I believe that this card is helping us somewhat; and at the suggestion of Mr. Jiggins I offer it to you for anything it may be worth.

"The President: Gentlemen, I think that is a point very well taken indeed. We all know that there are a number of our customers that not only wait for the car to arrive in some cases, but also extend [fol. 858] the ten days beyond the ten day limit from date of invoice. It was intended, this five cents on a barrel, it was absolutely intended to receive payment within ten days from the date of the invoice. And I think it is a very important thing that we try to hold to that arrangement, and the suggestion of the Lehigh Company seems to be a very good one.

"Mr. Israel: Mr. Chairman, would there be any objection to having that card copied and a copy sent to every member by the secretary?

"The President: I don't see any harm for the same verbiage, practically, being used and sent out by all the companies to their customers calling their attention to the fact, that this Association is giving them a discount for a payment within ten days and holding them to it, not eleven days or twelve days or thirteen days but holding them strictly to the account of within ten days' period.

"Mr. Israel: I was following the language of it very closely when it was read and it seemed to me to be admirably worded. There is not a superfluous word in it.

"Mr. Lober: I was just about to make the same suggestion as Mr. Israel. We all would like to have a copy of that card. So far as we are concerned I am going to have a similar card printed and used in our business.

"Mr. Jiggins: So am I.

"Mr. Corbett: Might I make a suggestion, there was only one [fol. 859] question that came to my mind and that was could not that card be a little more emphatic. I have a question and that is, would it be wise to strengthen that by some specific reference to the post mark showing the date or something of that kind. So far as I

know we have all been trying to insist on that right along and the customer who would talk of taking the ten days after the receipt of the goods—it is perfectly preposterous because we all know cars are sometimes three weeks on the road. For our part, we have never allowed a customer to take discount, under those circumstances, and we have lost our customer often before we would permit him to get away with such an abuse and take a discount after the car arrived rather than ten days from the date of the bill. But I think there should be some more emphatic reference right there as to the absolute date. We have all had people beg us for three or four days and all that sort, attempting that sort of thing and we might just as well give them something like this as a prelude to the laxness that we are all trying to cure.

"I have always felt it would be better—I would rather give a man a cut in his price, but I would not give him a discount in that way. You figure out a percentage of this of course and arrive at — as an insurance, and it makes quite a figure. You take all of these allowances and figure them as an insurance rather than a financial discount and then figure it out at the annual rate of interest and you will see that the allowance is exceedingly liberal.

[fol. 860] "Mr. Israel: The card does not state first, specifically that the ten days are to be computed from the date of the invoice and not from the date of the arrival of the goods.

"Mr. Corbett: Certainly.

"Mr. Israel: Then it follows that if the discount is offered to make it of advantage to the dealer to pay invoices within ten days from the date rendered and not ten days after the date of arrival of the cement. It calls it to his attention distinctly. There might possibly be an idea, that is in your mind carried out by underlining those words 'not ten days after the date of arrival of the cement.'

"Mr. Corbett: Absolutely ten days from the date of the invoice to be determined by the postmark of the letter containing the remittance, or something of that sort is my suggestion, I don't know whether that is too strong. I cannot see anything which is too strong with such a liberal discount, that is the way I feel about it.

"The President: Mr. Ackerman, will you take the chair?

"(Mr. Ackerman takes the chair.)

"Mr. Israel: The card strikes me so admirably and it is worded so concise and so clear and emphatic where this discount will be allowed that it is a question in my mind whether it is possible to improve it any. I made the humble suggestion that the words 'not ten days after the arrival of the goods' might be underscored in red ink because that would strike anyone in the eye that read it, it [fol. 861] would strike them right in the face and they could not very well get away from that.

"It has been suggested that the date of the invoice rendered be used. That might be less hopeful. A customer might say, 'Well, now, it is true you wrote on there March 10th, that thing never was mailed until the 12th or the 13th, and you ought not to count the

ten days from some arbitrary date that you wrote on the invoice.' And it has been suggested that the ten days begin from the postmark on the envelope containing the invoice. What was that reference to the date, wasn't that it?

"Mr. Corbett: My suggestion was not in any way a criticism of this card. I think it is a most excellent thing and I thoroughly approve of it.

"Mr. Israel: So do I.

"Mr. Corbett: But to my knowledge no one has ever been so fatuitous to let a man have discount ten days after the receipt of the cars, and I know of no case that has been done in, unless it be a very exceptional case, for some peculiar reason. My only idea was that we might emphasize, perhaps, by the word 'absolutely' or something of that sort, and make it more emphatic. We want to make it that it is absolutely ten days after the mailing of the invoice to the mailing of the remittance, and that that will be determined by the postmark on the letter.

"Mr. Israel: That might be a good idea.

"Mr. Corbett: The United States postmark would be a good guide because there are constant evasions, and if we don't start that thing [fol. 862] at the very beginning with absolute strictness there will be one, two or three different delays that will be worked or tried to be worked on you, where they will try to get some extra days in which to have the discount allowed, all of which would be very unfair but which will be very hard to detect and very hard to meet. Whereas if we have something of this kind stated in advance as a guide it might make it easier to meet."

"Mr. Israel: Suppose we enter the words 'Remittances will be considered as of the post mark on the envelope containing the remittance.

"Mr. Corbett: That is my suggestion, something to that effect.

"Mr. Lober: Mr. Israel, that very point, the date of the invoice might be taken care of by making that read 'The date of the shipment from the mill' which would be the same as the 'date of the invoice' with us, and I imagine with most companies.

"Mr. Cover: As shown by the bill of lading.

[fol. 863] "Mr. Lober: As shown by the bill of lading, yes. There is a point in connection with that cash discount time which I think most of you remember was brought out by the trade relations' committee of the other Association. They say that their counsel—I don't know which company's counsel, but I think it was the Universal Company's, advised that if a cement company as a general proposition held their trade closely to the ten days' time from the date of the invoice in allowing the cash discount deductions and then made one or two exceptions, allowed a customer here or there to take extra time on his bills under one excuse or another, that the car did not arrive, or that they were entitled to ten days from the date of arrival and so forth the statement was that the company was in effect discriminating in favor of such a customer by practically granting them a lower price, and that that was discrimination under the terms of the Clayton Act and illegal. I don't know

how that would stand at law, but it is not a bad argument to use on your customers. I have been using that with very good effect in a number of instances but I don't know how that would go, if we ever should go to court with a court case on that question, I don't know how that would come out.

"Mr. Cox: I don't know as you would have any difficulty with it, it is good doctrine to help out with anyway if you can make them believe it.

"The Chairman: I think that a number of you may have seen this arrangement that is printed on invoices as to discount which [fol. 864] says, 'The discount of five cents per barrel will be paid on or before'—and then there is——

"Mr. Lober: The date is written in?

"The Chairman: The shipper writes in the date.

"Mr. Lober: We have that on all our bills. It is printed in the margin of all our bills. You may have seen it, but we print it right in there, those conditions leaving a place in the margin to fill in on the bill the exact date and also stating that if it is not paid then the terms are 30 days net. It used to be two per cent and now it is five cents per barrel for payment within ten days from date of invoice, no discount after such and such a date which we write in when we make out the bill.

"Mr. Corbett: You write in the amount of the discount?

"Mr. Lober: We write in the amount of the discount, we compute it.

"Mr. Corbett: Saying it will be allowed on such a date.

"The President: Writing in the date."

[fol. 865] "Mr. Corbett: The amount also.

"Mr. Matthes: I am having printed now a number of slips, yellow in color, our invoice being blue so as to bring out the contrast, and on all slips showing discount of so many dollars and cents will be allowed if the invoice is paid on or before a certain date, and we put the date in addition on the regular invoice we have printed terms such as five cents a barrel cash discount allowed. My reason for that is, that the amount of money may strike the customer more forcibly than the five cents per barrel would especially a small customer. We are putting that additionally on, that is the terms on the invoices so as to try to bring in the remittances within the ten days.

"(The president resumes the chair.)

"Mr. Israel: I think that is a very good idea to do that, but this card serves still another purpose that is reconciling those who would feel disgruntled because they had paid two days afterward and yet the rule had been so stringently drawn against them. It is a sort of appeal to their sense of justice, that it would be unfair to others to allow it to them and not to other customers of the Lehigh Company, for instance, we will say.

"Mr. Matthes: I think the card is a most excellent thing to carry out this idea if it does as it was also stated by Mr. Ackerman that they were doing or somebody stated that they were doing, they

[fol. 866] were writing out the discount, how much it was in dollars and cents showing how much would be saved, drawing it particularly to their attention in dollars and cents that so much will be allowed if the invoice is paid on or before a certain date. Then write in the amount of dollars right on the bill, and that is a very good suggestion as making an appeal for immediate payment.

"Mr. Israel: That is the thought that is back of it.

"Mr. Matthes: That is the idea, to bring out the contrast, it brings it out, sends it out prominently before them.

"Mr. Walters: Speaking a little while ago about the post mark on the envelope, I will say this; I have our people in opening all mail to save every envelope that has a check in it, and I file those envelopes with the correspondence so I have the envelopes showing the post mark always unless it is a case where there is no question about it.

"Mr. Matthes: What do you do, Mr. Walters, in the event a remittance came in or was received through a branch office or through a traveling salesman on the road?

"Mr. Walters: I think where the branch office receives the remittance, if it got there within the time that would be acceptable.

"Mr. Matthes: You haven't any envelope in which they were received there.

"Mr. Walters: No, not always, other companies do not have the same regulations that we have at the main office.

[fol. 867] "Now as for these cards if it would save the secretary some trouble I might send in a supply so that he could send them out if you desire me to do so.

"The President: We would appreciate that very much.

"Mr. Lober: That would make it much easier for the secretary.

"Mr. Israel: It might be a good idea to send out also this idea on a slip of paper of a discount of so many dollars and cents that would be allowed if the invoice is paid on or before a certain date. That will remind us all over again of that idea.

"Mr. Matthes: I am having those printed at the present time, I have not got them in the office yet. My intention is to use them as soon as they come in.

"Mr. Israel: One of those enclosed as a sample with these cards, it would remind us all again of that idea.

"The President: Have you anything to say on the subject further?

"Mr. Cover: You will send these to the secretary?

"Mr. Matthes: As soon as I get them I will be very glad to do so."

* * * * *

"Mr. Hahnemann: I would suggest we also report payments that have been made by customers whose accounts have been put in the hands of the attorneys. For some reason or other you know, some [fol. 868] times, these people have been sued or the contest upon it put in the hands of the attorneys and they might be perfectly good.

"The President: Do I understand you want all accounts?"

"Mr. Hahnemann: When the accounts have been settled, that we also report that to the Association.

"Mr. Israel: Oh, yes, that is accounts that have been placed in the hands of attorneys to be promptly reported as paid as soon as they have been."

* * * * *

"Mr. Hahnemann: Don't you think it would be to our advantage to report the accounts that have been settled?"

"Mr. Israel: Oh yes.

"Mr. Jiggins: This was taken up at a previous meeting and decided that any information that we wanted to know further about the account, we could call up the company and ask, whether paid or not.

"Mr. Hahnemann: The way they are reported now, they have been put in attorney's hands and stay there.

"Mr. Jiggins: It was brought up at the previous meeting and put on the table.

"Mr. Hahnemann: I came late, last time, you know, and did not hear that.

"The President: Well gentlemen, it is for you to decide what you [fol. 869] want done in reference to this question. At the last meeting, it was decided that accounts placed in the attorney's hands, should be left in that state. Now if you gentlemen wish to have that changed, it can very easily be requested that all members send in a memorandum of all accounts that have been settled that have been placed in attorney's hands.

"Mr. Gilkynson: I should think that would be advisable to report that the accounts have been settled, otherwise these accounts will remain on the list there as being in attorney's hands indefinitely. But I don't see any advantage of reporting the amount of the accounts.

"Mr. Hahnemann: That I did not mean, but that somehow that account had been settled.

"Mr. Israel: In order to bring the matter up in some concise form I will make a motion that all accounts that have been reported as being in attorney's hands, be, as soon as they have been disposed of, reported by the company that originally reported as having placed them in attorney's hands.

"Mr. Corbett: I second it.

"The President: You have heard the motion. All in favor of it will say aye. (Ayes.) Contrary no. So ordered.

"Mr. Lober: I want to bring out the point that several of the interested members made in connection with that attorney's list. They wanted that list to be kept as a sort of permanent reminder, or evidence that the man's name had gone on that list and that was [fol. 870] enough for them. They didn't care whether the account had eventually been paid or not. They still wanted to know that that fellow had been subject to a suit, for they themselves did not want to sell him if some other person had to sue them. And Mr.

Medler was very emphatic about that, and therefore I understand that it was the majority of the meeting in New York—when I was running this thing—that the majority of the members would not want the name removed from the list, when it was paid—when the account was paid. They want the name continued there as having been sued at some past time. Of course, mark them paid, that is all right, but still keep the name in that list. You know, that list is simply a supplement, gotten out every month, and when that gets too bulky I think we will have the whole attorney's list reprinted.

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[fol. 871]

Govt. Ex. No. 124

Regular Meeting of the Cement Manufacturers' Protective Association,
Sales Managers' Branch

Meeting held at the home office of the Association, Room 219, Commercial Trust Building, Philadelphia, Pa., March 20, 1916, at 2 o'clock P. M.

* * * * *

"Mr. Ackerman: It has been suggested that the companies who did not make any shipments last year be approached to see whether they will not pay to the Association an amount which corresponds to their shipments, if they had made them. If the Edison shipped any last year, I do not know. I understand the Cayuga did not. If [fol. 872] I might offer a suggestion, would you authorize your treasurer or some one to wait on these gentlemen and to report at the next meeting what the dues would be for each company? It seemed fair to the committee that they should pay whether they had shipped or not inasmuch as they got the full benefit of the work that we are all doing."

* * * * *

"The President: Gentlemen, as a very small amount of money is in the treasury and we will need some money very shortly and the bills of course could not go out until the first of April, if it is agreeable to the members we would like to send out the bills a little in advance and we should appreciate any remittances that we possibly could get or receive before that time. Those bills will be dated, however, as of April 1st, according to our by-law. Therefore I would ask you to send us in as early as possible a check as requested.

"Mr. Israel: Do we get a discount of five cents on that?"

"The President: This is not a sale of cement. We will now hear the report of the secretary."

* * * * *

"Mr. Brobston: I have here a letter from Mr. McIntyre of the American Association of Portland Cement Manufacturers about the collection of information as to concrete roads, and its continuation. I think as far as the Lehigh Valley is concerned that the answer [fol. 873] for that ought to be for the entire district rather than for our own district. I will ask Mr. Bacon to read that letter and let the members here decide how they shall decide to answer to that letter.

"Mr. Bacon: This is a letter——

"Mr. Swett: Is not that out of order, under new business, is not this business which does not pertain to the Protective Association?

"Mr. Brobston: I am thinking it is the business of the Protective Association. As there has been a question asked in this letter here and it is worth while, it seems to me to give a uniform answer and the question is as to the collection and dissemination of information as to concrete roads. I think that is something that ought to be of interest and is of interest to the most of us, and I think we had better decide what answer should be made to that.

"Mr. Moyer: I do not think that comes under the head of what we are here for, I think that does not come within the scope of our constitutional rights.

"Mr. Brobston: Why not?

"Mr. Moyer: It comes under the head of promotion.

"Mr. Brobston: If we can do anything to promote or establish the cement business, we ought to do it.

"Mr. Moyer: But we cannot do that under our constitution and by-laws.

[fol. 874] "Mr. Brobston: We certainly can decide how we want to reply to this letter. You all have got this letter and I would like to know how you replied to it.

"Mr. Israel: I think Mr. Moyer's point is well taken. This letter concerns each and every one of us individually and as a company and as such a company being a member of the Association of the American Cement Manufacturers, but it does not concern the Protective Association as an association.

"The President: I think it is in order to move that the letter be laid on the table.

"Mr. Brobston: I withdraw the letter. The only point is this: They ask whether they shall collect the information and then if half of us say we shall collect it the rest will say they do not want them to collect it, that will not give Mr. McIntyre very much information. Whether that is not the simplest way of getting at this, I do not know, but it seems that we might easily decide as to whether we do or do not want the information and say what we want, what we want or what we do not want in no uncertain manner. But as I say, it seems to me that this is something that is fit to be taken up and asked and determined at this meeting.

"Mr. Moyer: I do not make any objection whatever as I think the project is an admirable one and, as Mr. Brobston has suggested, of considerable value, but if we are to take up all sorts of subjects of that kind, we certainly will have no time to take up the subjects that

[fol. 875] pertain to the subjects which are relative to the subjects of interest to this Association especially.

"The President: I think Mr. Moyer is right, as to that. That may be information we would like to have, but I do not think it comes under the regime of the Association.

"Gentlemen, it has been suggested by a certain member of the Association, that some definite action be taken in reference to the bin charge, and that the wording on all quotations—there should be some wording on all quotations stipulating that if cement is to be held and tested on the mill that it is to carry a charge of 3 cents a barrel. I should like to have the feeling of the members in reference as to whether it would not be a good idea to have on all quotations, wording something as suggested by this member. Would it not be well to have a 3 cents a barrel charge put on, call it a bin charge, on all quotations on cement held at the mills? That is a particular statement which is made to me, that there should be a charge made and stated in the quotation as a bin charge.

"Mr. Israel: I submit this as a point of proceeding and that is that this matter which is just now being submitted does not come within the purview of our constitution and the purpose of the organization. That seems to be the idea as to the other suggestion and this still seems to come within that feature. I make the point of order of that, that this is out of order as well as the other was. And [fol. 876] I would like the chairman to solicit the opinion of our counsel who is present and be guided in that respect.

"The President: Mr. Cox, the question has been submitted to you with reference to this so-called bin charge of three cents a barrel.

"Mr. Cox: I think the point of order is really well taken. It is not within the constitution and by-laws.

"The President: Well, Mr. Ackerman, have you anything to say on that subject?

"Mr. Ackerman: No, not for the moment.

"Mr. Brobston: Mr. Chairman, I might suggest that possibly I might bring that motion or suggestion within the proper limits of the discussion of this meeting, if it was simply made that a statement of any charges that are made for the bin charge should be included in the form of quotation we are using for the purpose of securing a uniform quotation: That any charge that is made for holding cement in bins should be noted on that quotation sheet. Would you feel that that would come within the proper limits, Mr. Israel?

"Mr. Israel: Without stating anything as to what the amount of the bin charge should be?

"Mr. Brobston: Yes.

"Mr. Israel: Yes, anything that is charged or suggested as Mr. Cox held, anything that is charged for bin charges should be added to the price stated in the quotation, Mr. Cox, what do you say to that?

"Mr. Cox: This I understand refers still to reporting these old closed transactions.

[fol. 877] "Mr. Israel: No, it refers to future business. As I understand, Mr. Cox, it is this:

"Suppose that in the selling of cement, there are some concerns that insist, that they shall send their inspectors to the mills, examine the cement, test it, and if it meets with their approval, then the bin containing that cement is sealed with a seal which, of course if broken, would be observed. That retards the manufacturer in the progress of his business considerably, as he cannot ship any cement out of that bin, no matter how short he may be of cement for his general business, that is gone, and the purchaser takes it out at his pleasure. Sometimes it may take a month and may take him more than that, sometimes two months or six months for that matter. Some purchasers, especially those of an official character, like the Water Board of New York, they will go to still further limits, they will say they want to test this cement before it ever gets into these bins at all, we want it tested as it is spouted down into the bin, and then of course after that sort of test again the bin is closed and sealed. That is still a greater hindrance to the manufacturer.

"I think we all feel justified in holding and making a charge for that.

"Without mention at all of what the charge should be that is made, and without any suggestion that the charge should be uniform, the suggestion made by Mr. Brobston simply is, that supposing [fol. 878] that I had to make a quotation, that then there should be in that quotation, if it were a large one, that a bin charge should be made, if the cement were held which would be plus X, that X being not necessarily uniform at all, each one making a different charge. You might say that it is four cents a barrel, and that would be, say \$1.04 by one company and another company might make six cents a barrel and that would make the quotation \$1.06, and whatever the quotation might be, that it should be incorporated or have incorporated in it as a part of the total sum this amount that they desired to charge for bin testing.

"Mr. Cox: Well, does not that rather relate to the trade practices with which the other Association deals, than it does with anything that we are doing here.

"Mr. Israel: No, the members of this Association all of them are selling cement. Now in quoting they desire to have some uniform practice in that respect.

"Mr. Cox: Yes, but thus far, as I understand it, this Association has not had anything to do with trade practices. That has been left to the National Association which has been drawn up in a sort of educative form of quotation, etc.

"Mr. Israel: Well, we do deal with business practices of this kind: we decide that it is a good thing to accelerate the collection of our accounts, to allow a discount of five cents a barrel. We decided that it is a good thing in order to protect ourselves against incurring indebtedness, uncollectible or partially so, to exchange information [fol. 879] as to our experiences with the different persons to whom we sell; we adopted that proposition, and so it seems to me it falls under the business practice.

"Mr. Cox: The point I make of that is this is a matter of the National Association, which deals with these trade practices. Thus

far we haven't dealt with them at all as an Association. It is upon Page 10 of the report of the committee on trade conditions of the National Association.

"Mr. Brobston: Mr. Chairman, I think this matter is absolutely very clearly pointed out and the suggestions as made are certainly covered in the objects of this Association. The object of the Association is for the collection and dissemination of such proper information as may serve to protect each manufacturer against misrepresentation and imposition and enable him to conduct his business as he feels he should do so free from exaggeration and the influence of false and insufficient information. If we don't know whether a quotation includes a charge for a bin test or does include a charge for a bin test, we certainly have insufficient information; and this is an effort to see whether we do have proper information as to whether a quotation be so made as to include a bin charge or whether it does not. It certainly seems to me that comes within the scope of this Association.

"Mr. Cox: I think that is perfectly correct, if those things that we have decided to report should include also information as to whether the figure includes the bin test. But the suggestion I understood from Mr. Israel was made here is that we would have some additional form or report relating to quotations as distinguished from closed transactions.

Mr. Brobston: He does not ask for any formal report at all, it is merely a suggestion that when we make a quotation the quotation includes the bin test, if it does, that we shall state on the quotation blank that we send out and specify that it does not include a bin test charge, so that the others of us seeing that will be in a position to know whether that includes a bin test; the dealer may say it does or it does not include the bin test. In other words, it gives the proper information, places us in possession of the information to know what the true situation is.

"Mr. Israel: Those are things that are brought up for decision of this Protective Association.

"Mr. Brobston: Which is within the scope of this Association.

"Mr. Dutton: If I remember correctly in our charter, etc., I am only supposed to report contracts of what we have done. Is not reporting something which we expect to do a little bit illegal? A quotation, in my opinion, does not come in the scope of this Association, so far.

"Mr. Brobston: It read from the by-laws of the Association which says: 'To keep us free from misdirection by false or insufficient information.' I only want the members of the Association to be able [fol. 881] to put themselves in a position where we won't be getting insufficient information in regard to other contracts of other people.

"Mr. Israel: Suppose you were to go to a dealer and he were to say to you that company X had quoted him a certain price whereas in truth and in fact this was not so. Perhaps no price was quoted at all, perhaps a greater price was quoted than what the dealer stated. That would be false information and whether you would

have a right to protect yourself against that or not is a matter which involves a question I would like Mr. Cox to answer.

"Mr. Brobston: I will put it in another way then, in reply to Mr. Israel's statement; we are reporting these quotations or contracts as they are made to the Association. We certainly should have our contract in form, so that we can tell whether it has a bin charge attached to it or whether it does not have a bin charge attached to it.

"Mr. Israel: Now is there any objection to that?

"Mr. Cox: No objection at all to include in the report that you are now making the Association, any information as to whether the price that is reported includes bin charges or not.

"Mr. Israel: Now we have it.

"Mr. Cox: But when you speak of a quotation distinct from a transaction heretofore which had been recorded, you open another and a different field.

"Mr. Israel: That is right. Suppose, Mr. Brobston, you be kind [fol. 882] enough to make a motion then that the records sent to the secretary shall state as to closed transactions whether it includes the bin charges or not?

"Mr. Brobston: I move you, Mr. President, that the reports sent to the secretary of the Association shall state whether they include a charge for bin testing or not.

"Mr. Cover: I second the motion.

"Mr. Coogan: Would that be necessary on every job that I report on, every contract that we report, to make a notation on it, if it does include the bin charges?

"Mr. Brobston: I should say not, I should say that when you reported a contract that included bin charges, you specifically should say so.

"Mr. Coogan: The omission to state whether you include bin charges or not would mean what?

"Mr. Brobston: If nothing is mentioned, it is assumed there is no charge for bin testing because if we adopt this motion that the bin charges should be specified, why then they would be stated if any were included.

"Mr. Israel: The only report made to the secretary for the bin charges or testing charge, that is if there is one, it shall be so specified and so stated, is that right?

"Mr. Brobston: That is correct.

"Mr. Israel: I will second that motion.

"The President: Gentlemen, you have heard the motion. All those in favor will say 'Aye.' (Ayes.) Contrary 'No.' So ordered."

* * * * *

[fol. 883] "Mr. Gilkyson: I would like to ask for some information; is it understood that the Association is to furnish corrections for those books or is it understood that the companies themselves will have to make those corrections?

"The President: The companies themselves will have to make the

corrections as sent to them by the Association but they are kept as near as we can have them correct, and the changes are given to the different members of the Association and they themselves must make the changes in the books that they have.

"Mr. Swett: One question, Mr. President, members will not make corrections until advised to do so by the Association?"

"The President: By the Association.

"Mr. Bacon: The Association has never sent out any corrections on the freight rate books, they have all been coming from Mr. Coogan.

"Mr. Brobston: I would like the meeting to consider Mr. Weaver's suggestion. It seems to me that even though it is only a matter of \$900 or \$1,000, that the members of the Association should pay for the copies as they get them. The Association could figure out the actual cost to the Association and then each company would feel free to order as many as they required, and I think Mr. Weaver's suggestion certainly is a proper one.

"Mr. Dutton: I think that is no more than fair. You take some [fol. 884] companies that have more salesmen out and they require a good deal more books than the company that only has a few salesmen.

"Mr. Coogan: And they pay more dues, too.

"Mr. Dutton: That may be so, too. That may be taken care of in the dues.

"The President: I would be very glad indeed to put that to a vote. It is a matter entirely for you to decide. I would not like to say.

"Mr. Coogan: The question should not come up until such time as we need to print some more books.

"Mr. Twamley: I have this to say. I think we should pay for the books. I know that we often have requests for books from our customers who want freight rate books, and I would not feel that I was at liberty to draw them unless I paid something for them. We have paid for them in the past and we can pay for them in the future.

"Mr. Swett: We are paying for them by our dues, in a sense.

"Mr. Twamley: I know, but the Association as a whole pays, but I think it would be very much better if each one of the companies should pay for the books that they require as they require them.

"The President: It was decided *that* the Association, at a former meeting, that they would be given to the different companies as they were wanted, from the supply that we have on hand.

"Mr. Twamley: Yes, I know that. But we can reverse ourselves in that respect, if we see fit to do so. I think that when that was [fol. 885] decided, Mr. President, it was understood that we already had a number of books on hand which might be distributed because they were already paid for. Now we have to pay out \$800 or \$900, and I think it is up to the Association to get that money back which can be spent in other channels, notwithstanding the fact that I heard the remark made here a few moments ago that the money would be rolling in on us faster than we could take care of it. I think when that time comes, we can find a use for it.

"The President: Well, gentlemen, you have heard the suggestion—

"Mr. Dutton: One moment, may I have a moment before you put that question? I would like to say, that as far as giving books to customers for them to use to figure freight rates on, I would like to ask whether that is not a dangerous practice? We have a lot of inquiries for freight rate books. The ordinary customer is supposed to be selling in his own town. He knows what the freight rate is there. It means that every time there is a change of freight rates, we have to keep in touch with the freight books that we have given out and see if they get the correct notice of the change of the freight rate. I think it is saddling on to each company who does that a whole lot of responsibility which may be a means of causing disturbances at different times on our quotations. We have a lot of inquiries about them, and I have always turned them down, I have not let any of them get outside of our own company.

"The President: I think you are right.

[fol. 886] "Mr. Swett: I don't think the customer should have the use of these freight books.

"Mr. Weaver: I don't think so either.

"The President: It is a matter for the Association members, and not for the customer.

"Mr. Dutton: That is what I believe.

"The President: I don't think these books are made up for distribution among the customers of any company, it is for the use of the members of the Association solely, and their different branches.

"Mr. Dutton: I might simply say this, all this was brought home sharply to me; about a year ago I was requested by a dealer in Baltimore for a freight rate book, and before I gave it any thought, I sent him one, and it was but a short time before I learned that he was making prices at different points down on the eastern shore there, and he had those freight rate books which he was using to upset the business that we had with the different dealers, and it all started from letting him have one of those freight rate books.

"The President: I think this information should be kept for the members of the Association, and not for its customers.

"Mr. Coogan: The Association has plenty of freight rate books to last them for probably the balance of this year with the exception of the State of Ohio. If the State of Ohio must have them printed. I don't imagine that one state would cost over \$100. However, there [fol. 887] is no use in meeting a situation which is not likely to arise for some time, at this time.

"Mr. Israel: Mr. Chairman, there is no motion before the house.

"Mr. Moyer: I move that we go on with our new business.

"The President: Is there anything, in new business that is to come before us at this time before we take up the matter of the contracts? No other new business? (No response.)

"Mr. Bacon has a number of inquiries and a number of replies to the members that were filed as of February 1st.

"Mr. Brobston: Let me ask you a question, Mr. Chairman, in the

line of finding out what this Association can or cannot do. Is it the business of this Association to know whether a person is or is not a dealer?

"The President: I think that would be in order to answer whether a customer is a dealer or not.

"Mr. Brobston: What I mean is, is it a question to come before this Association to decide whether a person is or is not a dealer. That is exactly what I mean.

"The President: That is an interesting question. I don't think that that would be pertinent at the present time, Mr. Brobston.

"Mr. Brobston: I would like to have the counsel pass on that, whether it is a proper thing for us to bring a question of that kind up. [fol. 888] "Mr. Cox: That is a matter as I understand of trade relations, it has that in it and that is a feature which this Association has never gone into.

"Mr. Brobston: I will put it in another way: Is there any other reason why this Association should not enter into trade relations matters—I think it is about time it did.

"Mr. Cox: You will have to amend your constitution to do that, if you really want to do it.

"Mr. Dutton: I would like to make a suggestion: In our reporting of these contracts here I do not believe at the present time, as Mr. Cox said the way it works out, that we have any right here to discuss here as to whether we are going to quote a man as a dealer or simply some other way, and I do not think it would be in harmony. I think that we should simply report these contracts as sold to a dealer or contractor and leave it wholly on the company who is doing the reporting to specify it as they saw fit, they could very easily take these contracts and check them up if they chose and ascertain that fact. I had several inquiries from parties as to whether such and such a contract was with a dealer or whether it was with a consumer. As it is, if you want to find out, you have to write a special letter about it to check the matter up and that becomes a matter that takes a lot of time, if you want to go through these 38 pages of contracts here and find out about very many of them.

"The President: Is not that the answer, in view of the fact that [fol. 889] you have been able to get that information during the last three months on those that have been reported on that method of inquiry. It seems to me that a simple look at the price would answer your question there without very much trouble, if you see whether the price was at \$1.05 or \$1.10, wouldn't that answer your question?

"Mr. Dutton: Still it is an easy matter to take from your own information and report on your own contract and say whether it is a dealer or a consumer by putting a D or a C after it, that would clear up the whole situation at once, as to how you considered it, and that would save any question unless one wanted to go into the matter further.

"Mr. Cover: It would be a good way of getting an expression of how each member regarded his contract, whether he regarded them particularly, in each particular instance as a dealer or not.

"The President: Would not that show by the quotation itself, Mr. Cover, as to what price it was quoted at without saying whether he was a dealer or a consumer?"

"Mr. Israel: No, Mr. Chairman, as the price does not always remain the same, and there is no such thing as a uniformity of price owing to the changes of freight rates and distances of delivery. But as a matter of record of each individual case, I cannot say, unless Mr. Cox finds objection to it, but in the matter of reporting the contracts to the secretary, if we will state if the purchaser is a dealer or contractor, that is all we have to do.

"Mr. Brobston: Mr. President, the question is this: All of the [fol. 890] companies in this room here now and have for some time in the past had a trade custom of quoting dealers and contractors on different bases. That is an accomplished fact which everybody—it is a generally known fact, it is something which has been done, and we are not speculating about the future. It certainly seems to me very pertinent as to the business of this Association as set forth in the constitution, because we desire to know whether a certain man has been in business, and is quoted as a contractor or a dealer by the people who deal with him, who are in this room. I do not see any reason why we should not find out about that right at this meeting. This is a matter that has occurred in the past, it is a fact well known and practically it is an established custom which has been had for years.

"Mr. Israel: Mr. Brobston, we could agree on something as to a form there and I was going to make a motion, Mr. Chairman, that any companies hereafter reporting their contracts to the secretary, that they will please state on the report whether the purchaser is a dealer or a contractor.

"Mr. Gilkyson: I second the motion.

"The President: Gentlemen, you have heard the motion. All of you who are in favor of it will say aye. (Ayes.) Contrary no—"

"Mr. Coogan: Just a moment, on all the reports we make to the secretary?

[fol. 891] "Mr. Israel: As to our contracts reported, state whether the purchaser is a dealer.

"Mr. Coogan: I think you are adding a burden on the member companies which does not amount to very much to the different companies.

"Mr. Israel: I made the motion to get it before you.

"Mr. Coogan: I cannot see where it will help us to get anywhere by stating whether a man is a dealer or a contractor or what he is.

"Mr. Israel: Mr. Chairman, I consider that the motion has not been put yet, it is being discussed.

"Mr. Erdell: I think it is a very good thing to have in the report. If you are in doubt, you look it up, you go after the information anyway as to whether a man is a dealer or a consumer, if there is any doubt about it.

"Mr. Gilkyson: I think it would be a very good thing to report, because that would naturally bring out the question as to each

company considering certain business as with a dealer or whether they considered it as with a contractor.

"Mr. Coogan: If that is what you are after, it is only effective in this way, by having this Association get up a list of dealers, and that is almost an endless job.

"Mr. Scott: I think you will find that would be adding a great deal of work.

"Mr. Coogan: I don't think it ought to be done.

"Mr. Swett: Could an amendment be made to the constitution, [fol. 892] whereby trade relations matters could be taken up through this Association?

"The President: Will you answer that, Mr. Cox?

"Mr. Cox: Of course it could be proposed and sent out for a vote. I suppose every company would have a right to take advice as to whether this is a proper thing to do, etc.

"Mr. Swett: There seems to be a number of trade relations matters coming up to this meeting, and in fact every meeting, and as I suggested, why should we not have a final decision on these matters of trade relations, or have a committee to take up these matters with the attorney, and see if the trade relations matters can be taken up through this Association through an amendment of the constitution. If they cannot, all well and good.

"Mr. Scott: I second that motion.

"The President: There is a motion already before this meeting.

"Mr. Swett: If it is decided that we cannot through this Association, then we can drop it and drop all trade relations matters at these meetings.

"Mr. Brobston: Mr. President, I will give you the specific reasons which caused me to bring this question up at this time: I don't feel that it is necessary to report in our monthly reports whether it is a dealer or a contractor with whom the contract has been made. It may be a good thing. But all I had in mind is I have here a communication from New England Builders' Supply Association which [fol. 893] says: 'Have been credibly advised that the following named parties should be classed as dealers.'

"Mr. Swett: That is out of order.

"Mr. Brobston: We all know whom to class as dealers.

"The President: We are trying to get this worked into a trade relations consideration, as to whether we can take that up in this Association, that is a matter that should go to that committee as to who is a dealer and who is a contractor.

"Mr. Brobston: The point is this, that if it is proper for us to decide and state here to the other members whom we regard as dealers and contractors, I think this is the place to do it. If it is not proper we ought not to do it.

"The President: We will try to see if it is within our province, Mr. Brobston, to submit those matters to the committee on trade relations, and if that is permissible that will come under that heading, and under the matters which they can take up."

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"The President: The chair understands he is to appoint a committee to confer with counsel as to whether the question of appointing a committee on trade relations is proper, and will report at the next meeting. I think that is the motion. Gentlemen, you have heard the motion and all of you in favor will say aye (Ayes), and those not in favor of it will say no. So ordered.

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"Mr. Sweet: That would be giving us what we want. We don't care about the work, what the Association wants is information and that is what we are paying for."

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[fol. 894] "Mr. Swett: Certainly. For instance, if I have a contract for one thousand barrels of cement and the secretary calls my attention to this contract stating that he believes that it is a duplication and not a bona fide contract and I, upon investigation find that such is the case, I cancel the contract and I so advise the secretary and then the secretary in turn advises all the members of the action that I have taken.

"The President: Some of them don't seem to want to cancel some of these contracts.

"Mr. Swett: That is the trouble, that is what I am trying to bring out. I am not making any complaint about the manufacturers that do take steps to investigate their contracts, it is those that do not take steps to investigate their own contracts. The fact that any competitor of mine called my attention to a contract that did not look quite right or the proper way, I would say now that I would not stop at any expense to investigate it thoroughly. If the contract was so, that I found the contract was not proper I would take steps to cancel it. I think we should all do likewise if we want to get anywhere. That is the purpose of this Association."

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"Mr. Israel: Mr. Swett's suggestion is that as soon as there would be a controversy in which there should be correspondence exchanged, suppose the controversy was finally settled, we will say between the [fol. 895] Coplay and the Pennsylvania, we will take as an instance, the reply to one letter will be sent and a copy of the other letter received from the Pennsylvania will be sent to the Coplay and vice versa to the Pennsylvania. If no action is taken by the parties to the matter, it would be nothing then for the secretary to report. But any action that is taken by the Coplay for instance if they decided that it was a duplication and they cancelled it, then notice of that particular act, that that contract was cancelled by the Coplay would be the information that would be given to all the members so that they can strike that off of the list.

"The President: That would come from the secretary."

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"Mr. Bacon: We were asked to investigate contract closed by both the Penn-Allen Company and the Phœnix with P. H. Fairlamb & Co., for 8,000 barrels on the Miserecordia Hospital.

"Penn-Allen replied that this cement is supposed to be used by Mower & Sons for fireproofing, and as there is a dispute as to which cement will be used we are working on this in connection with the Phœnix, so that when the fireproofing does start one or the other contracts will be cancelled.

"Phœnix replied to the above to the effect that both the Phœnix and Penn-Allen Companies have contracts for 8,000 barrels to be used on this work.

[fol. 896] "Mr. Gilkyson: I would like to make an explanation about that contract: We closed that contract considerably in advance of the Penn-Allen.

"Mr. Swett: That is right.

"Mr. Gilkyson: And I think it is perfectly legitimate by the way. And the contractor tells us they have proposed to use Phœnix cement on that job. Now I had it up with the Penn-Allen Company after I found that they had gone back and closed a contract too; and we felt that of course we could not both ship on the contract; and that whoever shipped on the work first, the other company would cancel. Of course the work is not started; but due to the fact that the duplication is on the list, I felt that we ought to get the thing settled so that that duplication will not exist. I, personally, saw the contractor to-day; and he makes the statement that if he lives to see the work started—and he is in a perfectly healthy condition apparently—he will positively use Phœnix cement on that job. Now I am going to ask the Penn-Allen Company to cancel that contract.

"Mr. Erdel: And the architect positively says there will not be a barrel of Phœnix go on that job.

"Mr. Gilkyson: Well, that is the other side of the story.

"Mr. Erdell: I think without doubt that very shortly one or the other of the companies will cancel their contract. We have all said that between ourselves, and as soon as Mr. Griffith raised the question [fol. 897] this month and wanted to have the thing cancelled before the end of the month, I took it up very vigorously to see if there was not some arrangement could be made and either one or the other cancelled it. If our cement does not go on the job, I shall cancel our contract immediately.

"The President: That is the spirit gentlemen. That is the way to do it.

"Mr. Erdell: I will tell you what we will do, we will cancel our contract as far as it comes here it ceases, it goes off of there.

"Mr. Swett: Let it stay on, it would be better.

"Mr. Gilkyson: It is entirely up to the Association.

"The President: It is the understanding that who ever gets the job, the other will cancel.

"Mr. Gilkyson: The only danger I see on that particular job is that this cement is asked for through a dealer; and I am afraid that dealer will misuse some of that cement; if it is left up to him.

"Mr. Erdell: And in our case, because we have our instructions from the architect who is to sample cars for that work before it leaves us, in that case it won't be.

"Mr. Gilkyson: That might take care of that."

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"Mr. Brobston: I would make a statement in regard to a number of contracts to which my attention was called by Mr. Dutton. Our contract with the Ford Sand Company and the Potter Paving Company we find are duplications, and they can be marked cancelled.

[fol. 898] "The President: If we can have the same cooperation of each member of the Association I think we are going to close out this subject of blanket contracts and duplications very quickly.

"Mr. Swett: Could not each company take steps to check their own contracts?

"The President: That is what you want to do."

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"The President: I understand that each one of the other companies should check up the report as submitted by every other company so that we can all get some light on the different contracts. In that way, if any other company can help the situation, the secretary would appreciate it very much and so would the fellow members.

"In that same connection, gentlemen, I feel it is more or less up to the Association to have some one to investigate further these contracts that have been reported and trace them all the way through. Now that will entail some little expense to the Association. And as we receive these inquiries and have not any reply from the different companies, if we had a man employed by the Association, he could follow those up. We could then authentically give the information in reference to each and every one of these contracts as they are investigated."

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"Mr. Swett: And he would only have to check up such jobs as say two concerns could not agree upon. For instance when I looked upon [fol. 899] a contract as being bona fide, and another company that was interested looked upon their contract as bona fide, and you would have the reports from us, each one of those two companies and then the Association man in turn would make his investigation and whatever decision he came to would be final.

"Mr. Dutton: As far as one man is concerned as I just said a few moments ago, he would devote all of his time in the beginning right here around Philadelphia, and I think one man is not sufficient.

"Mr. Swett: In the case of one man, he would only follow up such contracts in which two concerns interested could not agree upon as has just been explained. Now for instance, if you called my attention to one of my contracts and I find the information was correct that you gave me, it would not be necessary for the Association man to investigate that contract for the Pennsylvania.

"The President: Not at all.

"Mr. Swett: But on the other hand, if you felt one of my contracts was not bona fide, and I in turn felt that it was, then we could call upon the Association man to make his report.

"Mr. Dutton: In other words the only work he would have to do would be check up contracts in which two manufacturers could not agree upon."

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"Mr. Gilkyson: I think this man would be more of an arbitrator, would he not, than an investigator? That has been suggested here?"

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[fol. 900] "The President: Gentlemen, I do not know whether it is exactly in order, but I would like to ask one question. Have you gentlemen been quoting simply to dealers for 15 days' shipments? Been quoting, notice I said.

"Mr. Ward: I did not get the question, Mr. Griffith.

"The President: We are quoting to dealers only on 15 days' shipment.

"Mr. Ward: We have been quoting 30.

"Mr. Gilkyson: We have been quoting 15.

"The President: Gentlemen, the point is this, speaking personally: The Giant Portland Cement Company are quoting to dealers on 15 days' shipment; and just as an example, I would like to see how the different members of the Association have been quoting. It makes somewhat of a difference in the past, as to what has been done, and I would like to ask the different members as to how they have been doing it.

"Mr. Gilkyson: 10 days' acceptance, shipment within 30 (thirty) days.

"The President: We are quoting five days, and 15 days' shipment.

"Mr. Gilkyson: 15 days after the five days?

"The President: Five days' acceptance, and 15 days' shipment from date of quotation. How are you quoting, Mr. Gilkyson?

"Mr. Gilkyson: 15 days straight, no modification of it at all.

[fol. 901] "The President: How about you, Mr. Alker?

"Mr. Alker: Seven days' acceptance, 30 days' shipment.

"The President: Mr. Coogan, what is your rule?

"Mr. Coogan: Immediate acceptance, 15 days' shipment, that is for warehouse requirements.

"The President: Mr. Kyle, how about you?

"Mr. Kyle: Five days' acceptance and 30 days' shipment.

"The President: And Mr. Ward?

"Mr. Ward: I told you I have been quoting 30 days.

"The President: Immediate acceptance and 30 days' shipment?

"Mr. Ward: From the date of quotation.

"The President: How about you, Mr. Twambly?

"Mr. Twambly: Immediate acceptance and 15 days' shipment.

"The President: Mr. Smith, what is your practice?"

"Mr. Smith: Approximately 15 days. We quote them say the first or the third or the fourth of the month, making the quotation expire on the 15th. Or we quote on the 14th or 15th or 16th of the month and make it expire on the first of the following month.

"Mr. Swett: What acceptance?

"Mr. Smith: Straight time, approximately 15 days.

[fol. 902] "The President: Mr. Lober, what is your practice?

"Mr. Lober: Same with me.

"The President: And Mr. Dutton, let us hear from you?

"Mr. Dutton: Up till March 1st we quoted seven days' acceptance and 30 days' shipment.

"The President: And on March 1st, what?

"Mr. Dutton: On March 1st we sent out a new quotation of immediate acceptance and 15 days' shipment.

"The President: Mr. Weaver, what is your practice?

"Mr. Weaver: Yes, the same.

"The President: Immediate acceptance 30 days?

"Mr. Weaver: Yes.

"The President: How about Allentown?

"Mr. Weaver: Immediately, 15 days.

"Mr. Scott: What is the construction of the word 'immediately'?

"Mr. Dutton: I thought of that myself. We figure that immediate acceptance is by return mail.

"Mr. Swett: What is the Vulcanite?

"Mr. Lober: Immediately and 15 days.

"Mr. Dutton: I figure that as being by return mail.

"Mr. Weaver: I think the Trade Relations Committee thrashed that out pretty well, did it not, at Atlantic City, advising 15 days' shipments?

"Mr. Swett: Generally understood to be a 15-day proposition.

"Mr. Cover: It was referred back to the Committee, though.

"Mr. Swett: It was five days and decided on the 15-day proposition, as I understand it.

"Mr. Barbour: Ours is 30 days.

"Mr. Swett: Suppose we study that Trade Relations Report and at the next meeting we call the roll.

"Mr. Barbour: All right. That would be agreeable to me."

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[fol. 903]

GOVT. EX. NO. 125

Regular Meeting of the Cement Manufacturers' Protective Association, Credit Men's Branch

Meeting held at the home office of the Association, Room 219, Commercial Trust Building, Philadelphia, Pa., April 17th, 1916, at 11 o'clock A. M.

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"The President: There was one question that one of the members raised with me with reference to empty bags, and that is a report on all empty bags returned from January 1st to March 31st back and the percentage of a number of worthless and damaged bags that have been deducted from this credit memorandum. That question was raised in view of the fact that we might want to get at the question of how many bags are considered worthless in different shipments, and they want to know if it is feasible and if it could be done by the treasurers of the companies and a report made to the secretary of the Association. It would not be necessary for the company's name to appear on the report. That could make it A B C D and so on, but that would give all the different companies some idea of the percentage of worthless bags received in the different shipments and how each company is working their credits on bags. I think it is a point very well taken, because if a man returns 1,000 bags and is dealing with three companies, it would be more or less of a rebate if one company were giving him full credit for worthless bags and another one deducting a percentage of bags that were worthless.

[fol. 904] "Mr. Lober: We can do it easily enough."

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"Mr. Lober: I believe there is quite a variation of practice in that particular. Of course, it is not entirely with the credit end; it is largely with the inspection end at the mills.

"The President: It comes through the credit department.

"Mr. Lober: We get it through the mill. Of course, if the inspector gets a little lax in his inspection and puts through bags which he shouldn't then the percentage is not as large as it is the other time when the inspector gets backs up. The trouble is that many times we do not find out they are lax until our customers make a terrific kick, after the bags have already gone out, about bursted bags, and bags torn in the cars. When the inspectors do not find as many as they should we jump on them and they stiffen up, the percentage usually increases, and our balance of torn bags decreases until those fellows get careless again. I know ours does not run anything like three per cent, that is returned bags, over a period of years. I do not know what it has been so far this year.

"Mr. Christ: The Association has some statistics and they ask that question each year.

"Mr. Lober: I gave them the information at the time.

"Mr. Christ: What was the percentage on that?

"Mr. Lober: From ourselves?

[fol. 905] "Mr. Christ: No, the whole thing.

"Mr. Lober: I don't know; it varies a great deal.

"Mr. Horner: I think that was nearly $1\frac{1}{2}$ per cent to the Association.

"Mr. Christ: $1\frac{1}{2}$ per cent?

"Mr. Lober: Some companies were giving full credit. That was the information that has been reported, and that in effect practically

meant a rebate—that is giving to a customer credit for bags which couldn't be used again, and it might be interesting, from the credit stand-point, to know just what the general practice was in that respect. We might get out a report, without giving the names of the companies, simply giving A, rejection for the first three months of 1916 were $1\frac{1}{4}$ per cent; giving B; rejection $2\frac{1}{4}$ per cent; C, as high as 3 per cent, not knowing which company was which. We would get an idea of the variation. Some might be as low as $\frac{1}{2}$ or 1 per cent; some might be almost nothing.

"Mr. Israel: In other words, it shows there is a considerable difference, and now the next step would be how to straighten that up."

"Mr. Lober: Yes, sir."

"Mr. Israel: In other words, get more uniform practice."

"Mr. Lober: Yes. In connection with that, there is another matter I would like to bring out, and that is that the percentage of bad bags you would get back will vary much with the class of trade [fol. 906] you sell in general. If a great deal of your business is right to job where it will pay the user of cement to look after his bags carefully, when there are enough bags to enable him to spend the money to take care of them, the probabilities are that your bags will come back in better shape than will be the case where you are on a lot of small work and where they cannot afford to spend that money, and they are more careless with the bags. We noticed it particularly in returns of different customers. Some of our larger customers who use a great many bags of cement return almost no bad bags. The only losses they have are what you might call ordinary wear and tear. There are no abused bags. Other customers, small users of cement, return a very large percentage of useless bags. They will have a great many of hardened caked bags. We find that if the number of bags is small they cannot afford to employ a man to look after them."

"The President: Is it your feeling that it would be advisable to have a report made to the secretary, giving him the number of bags returned for the first three months of the year and the percentage of rejected bags, each one by letter instead of by name, so that the information can be compiled and sent to the individual members?"

"Mr. Israel: It strikes me that might convey the opinion, if that were done, that there was either practical uniformity or very great variance in regard to the consideration of the returned bags, whether sound or unsound, and if we had that information and found that [fol. 907] there was considerable variance, would we be any nearer to a solution of the difficulty than we are today?"

"The President: I think we would, in view of the fact if your company were allowing 10 per cent and one of the other companies was only allowing 3 per cent, you would look into your bag question very carefully to see the condition that your bags were shipped out in and packed up, if necessary. If your percentage were so much larger than the other fellow's, you would know why you gave credit for 10 per cent and somebody else only 3 per cent. That is where I think it would probably be a benefit to us to have this information."

"Mr. Israel: Suppose when the return of this information came in we found that 15 companies represented an average of 4 per cent and 8 companies represented an average of 10 per cent, would I be safe in concluding I am on the wrong side of this thing because I have been allowing or rejecting 10 per cent or would I be right in coming to the conclusion that I was on the wrong side if it were reversed? In other words, I would not know whether the eight that represented the 4 per cent included the Alpha, Atlas and Lehigh. If they did, would that be the right side of the scale for anyone to judge by? That is the correct average, because it represents, by all means, the larger volume of bags dealt with. But if the Alpha, Atlas and Lehigh were in the other column, which is just the other way (I am only guiding myself by the average shown by the large [fol 908] majority of the bags handled), it would be foolish for me to say, 'Well, I am right,' even though I am pursuing a practice which the larger majority do not. Whatever is shown to be the practice in regard to the larger majority of bags undoubtedly is right, but I would not know from this information, obtained in this way, anything about that.

"The President: I see exactly what you wish to draw out. I put it in the shape of a question as to whether it would be advisable to report by letters or by companies. That, of course, is for the members to decide. I would rather have it done by name if the general policy is feasible and meets with your approval.

"Mr. Israel: I would be very glad to see our name on the report with that information.

"Mr. Lober: There is no objection to us going out by name, if you desire.

"The President: How do you feel, Mr. Jiggins?

"Mr. Jiggins: I am satisfied.

"Mr. Matthes: I am satisfied.

"The President: Suppose someone offers a resolution to that effect. The question is whether the members feel it would be feasible to have this information brought to the members' attention, through the secretary, by individual companies reporting their name, and let the report go out giving the name of the companies. You have heard the resolution. Mr. Israel, I will ask you to put it in the shape of a resolution, if you desire.

"Mr. Israel: If you will be kind enough to repeat what you just said, I will make that motion.

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[fol. 909]

GOVT. EX. NO. 126

Regular Meeting of the Cement Manufacturers' Protective Association,
Sales Managers' Branch

Meeting held at the home office of the Association, Room 219,
Commercial Trust Building, Philadelphia, Pa., April 17, 1916, at
12 o'clock M.

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"The President: I will ask Mr. Moyer if he will report on what the Committee on Details arranged at the last meeting.

"Mr. Moyer: This report is written in Quaker style, 3rd month, 28th, 8 West 40th Street. The Committee on Details met, and the question was brought up as to taking up matters of trade relations, etc., in this Association. It was decided that these matters could be better handled by the Portland Cement Association, they having a Trade Relation Committee, on which Committee various members of this Association are.

"It was also decided that all paving contracts should be considered, adequately described and designated in the reports of contracts by this Association. At the present time it was not thought advisable to employ a man for the purpose of investigating contracts. It was decided that all information desired on contracts come through the Association office. If any one wishes to take up any matter regarding individual contracts with a member company, write to the Association office and the office will report the matter to that member company without giving the name of the source of information at all, so that there will be no possibility of these matters being used as sales efforts."

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[fol. 910] "The President: * * * The next point I wish to raise is, would it be possible to give the average price of each manufacturer's shipments to the Secretary, so that a report could be given to each member of each company of the average price for the preceding month.

"Mr. Brobston: What would be gained by that?

"The President: It would give the sales manager an idea of the different companies' average price so that they could see their own selling price as compared to the selling price of the others.

"Mr. Brobston: What would be the advantage? A man that sells at a low price would have a low average, and the man that sells at a high price would have a high average.

"The President: He might be making a number of current shipments during that month, which might bring that average up in connection with his average contract price.

"Mr. Brobston: If the contract price is high the man will have a high average and will have a higher price than the man who has a low contract price or selling price.

"Mr. Swett: I do not think at this time that it would be very helpful.

"Mr. Brobston: For instance, take mills like the Edison and Lehigh mills, their average price would be higher, I do not see what you would gain by that."

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"Mr. Erdell: We told the President that if the Association con-[fol. 911] tinued to send reports to people who did not furnish reports, we would discontinue sending our reports.

"The President: That is why I want the Association's views on the subject.

"Is there anything to be said on that?"

"Mr. Israel: Why not have the matter in such form that you have an official record for your future guidance?"

"The President: I would like to have that.

"Mr. Israel: I move that reports shall be sent only to such companies reciprocally as send such reports of the Association.

"Mr. Swett: That is covered by the by-laws.

"The President: You have heard the motion. All those in favor say aye.

"Mr. Coogan: That contemplates if there are some companies who furnish information to the credit branch and do not furnish it to the contract or sales branch, that those who furnish credit information would get the credit information and those furnishing the sales information would get the sales report?"

"Mr. Israel: In other words, reciprocity.

"Mr. Swett: The by-laws say the secretary shall put all information contained in a convenient form as directed by the Association and distribute the information thus prepared to the members thus reporting.

"Mr. Israel: In Section 8, Collection and Distribution of Information, it says that on or before the fifth day of each calendar month [fol. 912] each member shall forward to the secretary a full statement of all accounts outstanding sixty days or more, etc.; a statement of all bills receivable on hand, etc., less account for attorney's fees for collections, etc. Then comes heading Two, Statement of Contracts. Then comes a Statement of Contracts Canceled (No. 3); Statistical Statement of Computation and Shipments. Then follows, upon receiving the foregoing statement, which includes credits as well as the others, the secretary shall forthwith put all information contained in a convenient form as directed by the Association and distribute the information thus prepared to the members reporting. The secretary will prepare and distribute among the members complete schedules of freight, etc.

"I take that to mean that we would have no right to send any reports of any kind except to companies who send all this information, not a part of it, and I beg leave to withdraw my motion.

"The President: You have heard Mr. Israel's withdrawal. All those in favor say aye (Ayes). Contrary No. So ordered.

"It is the feeling of the Association that the report be not sent except to those members who furnish reports.

"Mr. Israel: That is, that no reports are to be sent, except to members who send in all reports."

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"Mr. Cover: I think it is very well understood why our company does not report contracts.

[fol. 913] "The President: Yes, that is thoroughly understood.

"Mr. Cover: It is very hard for us to make it understood. I want to make a statement now that beginning the first of next months we will report our contracts irrespective of what anybody else does. (Applause)."

* * * * *

"The President: The chair can only ask that you give every possible facility to get this information in at the earliest minute. You are the sufferers by not doing it. The Secretary does not hold it up except for the report of individual companies.

"Mr. Twambley: Suppose we fine them if they do not have their report in by the fifth. In that way you will have them all in."

* * * * *

[fol. 914]

Govt. Ex. No. 127

Regular Meeting of the Manufacturers Protective Association, Credit Men's Branch

Meeting held at the home office of the Association, Room 219, Commercial Trust Building, Philadelphia, Pa., May 15, 1916, at 11 o'clock a. m.

* * * * *

"Mr. Israel: * * * It would be most valuable information, and that information we could not possible get through Bradstreets or Duns, and there have been a number of businesses and industries that have adopted this very plan, for instance, the Jewelers' Association. It is one of the best protections against bad credit [fol. 915] that I can think of, and the only question is whether it will impose so much work upon this office as to make it impossible to handle it with the force we now have. But it is very valuable, beyond question.

"Mr. Lober: I may bring out a point in connection with the western plan. You may have noticed that the way they are handling it through their central office they will not have any reports such as this paper that has been passed around here in Philadelphia among the dealers would make necessary. They will simply have

the names of the parties to whom they apply to get the information and will apply, themselves, to get it. That would not materially increase the amount of work in this office, only to have the names of the places where we can go to get what we want.

"The President: If this met with your approval I think it would be more in line to adopt it than the other one that has been passed around. We are endeavoring to talk the same language with the Western Association, and to make as nearly uniform reports as we can on all subjects, east and west, because the South having joined us, we will only have two Associations, and if we can have the same reports on contracts and credits and statistics, it will be more simple to run it on one basis than on two or three different forms.

"Mr. Lober: There is one thing I forgot to say here. They intend to make up their list—they intend to continue sending out their list of accounts which have remained unpaid for sixty days or [fol. 916] more, and the way they intend to do that is to have some kind of a metal tag, some particular color, and the clerical force in the office, when entering the names reported by the various companies, will simply attach one of these tags to the card, which shows an unpaid account, and then they are printed, or typewritten, and they will be made up from the cards which bear these tags. They have a complete list of all the names of all the customers of every company, and their printed list will only include accounts over a certain age. The tag can be taken off after the list is made up, and put back the next month, according to the reports which they receive.

"The President: Is there any further discussion on this subject?

"Mr. Israel: Do I understand the idea is to bring about uniformity with the Western Association?

"The President: Yes.

"Mr. Lober: Our counsel, Mr. Cox, now has in his hands their plan. What are the differences between that and what has been handed around? As I understand this, on the first of each month, in addition to reporting what we report now, that is the names of the customers whose accounts are ninety days old or over, here we have to report to the Association the names of everybody we had sold to since the 1st of January, 1914, or 1915. These people were starting in 1914, and then at the first of each month we would send in our [fol. 917] report of unpaid old accounts, and we would have to send in another list, of new accounts, which we had opened that month. That is, we would have to give this office a list of our new customers for the last month. That would bring the thing up to date every month.

"Mr. Hilles: I was not here when Mr. Lober perhaps brought out the main grounds in connection with the value of this system. If we know from whom a new inquirer has bought cement, we have a reliable and accurate means of posting ourselves as to how that man has paid his bills. We know that commercial rating in an agency does not necessarily give us the full and accurate information which we need. The purpose of this Association is that we shall exchange

information among each other, and anything that will stimulate that along lines of safety, is something that we all ought to stand for, and stick to, to the end. I am sorry that I have not communicated with all you gentlemen in reference to new accounts that may have arisen, perhaps because our boys were not so active as they should have been, but I have communicated with a number of them, and I think each owes it to the other one, and each of us to make it a business to get acquainted on some such basis as this will provide, better than we are today.

"Mr. Israel: As it is today we report those accounts that are unpaid for over ninety days, and we report those that are in the hands [fol. 918] of attorneys for collection, and those that have gone to legal proceedings of any kind, but back of all that there is much that I would like to know, if we can. We do not want to know anything about those accounts that all of us are satisfied are good; and I think all will agree that it would not be wise to load down our records and involve ourselves with a lot of work regarding hundreds of accounts that are good beyond all question and no one would think of doubting them. We are after the accounts that we have doubts about, and we scan the monthly list here, and we say to ourselves, 'well, now, he is not on this list, and yet he may not be all right.' He may be paying promptly at the present time, but what has he been doing in the past? Perhaps he is just paying me, and is away behind with others. What is his ability as a business man? What is his record from a moral standpoint? What is the moral risk, and all these things? Regarding those that we are doubtful about, only, that is going at the thing in the right way. I would like to see uniformity between the east and west, but I would like to see that uniformity on proper and more practical lines. That is, I would rather see them come to our way of doing it. I think that is the right way. If I want to find out whether half a dozen concerns that I have doubt about, whether I should sell to them, I would not want to know anything about three or four hundred other concerns that I am selling to and am satisfied about. And it is this latter method that [fol. 919] involves the record of hundreds and hundreds, and hundreds of accounts that are of no interest to us. We do not care what new accounts are opened. You can see that it is going to involve an immense amount of work which is not necessary. I have no inclination to pry into the affairs of anybody else, and find out what new accounts they have opened, and I am sure everybody else in the room feels the same, I only want to know—if John Smith has ordered goods, and I am in doubt as to whether to ship to him—I only want to find out about him just the things that are stated in this list. I can see that it may involve the employment of a larger force here, but if it does, it will pay for itself. I am entirely in favor of the method that was outlined in the paper that was first circulated.

"Mr. Cover: I endorse every word Mr. Israel has said and I only wish I could express myself as clearly as he does. There is one feature that he did not enlarge upon that I think is very important. The system as outlined by Mr. Lober would involve publicity with a

vengeance. While we are all tending in the direction of publicity in connection with our business, and other lines of business are tending in that direction also, I think it would be a grave question whether we ought to tell each other every customer we have had in the past, and every customer we get at present and in the future. We only want to know about the applications that come up from day to day.

[fol. 920] "Mr. Hilles: If Mr. Cover, or myself, or Mr. Israel thinks we have a customer that the Atlas and the Lehigh do not know about, we had better go away somewhere and learn. The point I want to make is this: I am absolutely conscious that I have not got one customer that those companies do not know about. Then let us suppose that Mr. Israel has a customer who is rated AAA1 and was buying enormous quantities of cement, and some little question or dispute arose in Mr. Israel enforcing the rules that we all think should be lived up to, and that man telephoned to me and said 'Ship me ten cars of cement today,' and if I had the card system which Mr. Lober has shown, I would naturally turn to it and I would see that Mr. Israel had been selling that man cement, and I would telephone Mr. Israel, if I did not have that information as a credit man, with a rating like that staring me in the face, I would ship the cement as quickly as I could load the cars. That is a method which enables the company who has customers that do not want to live up to that rule, to force them to do it with a mild persuasiveness that does not create a ripple.

"Mr. Lober: I am sorry to throw any bolts in the machinery of Mr. Hilles's beautiful oration, but the Western plan does not contemplate sending out copies of these cards to every member, without asking what names were in the files in the central office. Then the central office would keep this card list and have a complete list of everybody's customers, but they would only give information [fol. 921] to the companies who applied for that information in regard to any particular name that they wanted to find out about, and the information they would get would be that the Atlas has sold this person, or that Sandusky had sold this person, and the inquiry would go to those companies for their report. Therefore, you would not have in your own office any particular list of customers to whom certain companies had sold cement, but you would have to telephone, or wire or write a letter, if you wanted to find out who had been selling to those customers, and I question whether Mr. Hilles, if he got an inquiry from some person having the three A's and the 1 after his name—he would think, unless he had some reason to suspect otherwise, that it was legitimate and all right and that there was no reason why he should not sell to them."

"Mr. Hilles: All our illustrations are taken from extreme cases, in order to press our points home more forcibly.

"Mr. Isreal: That is pretty hard on the lawyers.

"Mr. Barbour: I would like to know what excuse Mr. Hilles would make in such a case. Would he say he would not sell to them?

"Mr. Hilles: As a basis of credit I could not refuse to ship the

cement, but I could, and would, if this thing went through, and I obligate myself to do it, I could and would arrange to have a satisfactory written contract with those parties, whether they would com-[fol. 922] ply with those specific terms in regard to cash discount and payment for bags, or detention of bags. All those things would have to be assented to before I shipped the cement. Now if you look ahead on the basis of what the manufacturers are arranging to do, you will realize that it is not so near the border line of insanity to refuse to ship ten cars of cement to a man who is rated AAA1, particularly when you take into consideration that you are having a hard time to load and ship cement today, and if during these times we get together on a proper co-operative method of carrying on our business, we will not forsake it just because we need business.

"The President: If a bureau of this kind were established I think it would be simpler for any company securing a new inquiry to apply to the Association first and ask how Mr. Jones's account was, than to call up three or four of our friends and ask them. If he received it from the Association it would be strictly confidential. The company recording three or four hundred names, would be tabulated on cards, and any company calling up would receive full information from those cards, which would be practically brought up to date, and while it would be a little hard on the Secretary until he got it in working shape, I feel that it would be information that any credit man should receive, right off hand.

"Mr. Lober: If it might be in order—the Western Association will probably know how their plan is generally working. They [fol. 923] already have it working—I think about five companies are working in Chicago, and they have it working now, but their general plan I do not think will be working for a month or more, and it might be in order to allow this thing to rest until the next meeting, and we could all think about it, and then come here next month prepared to decide definitely as to what we want to do.

"The President: That is a very good suggestion, and I will leave it to the members to decide what they want to do about it.

"Mr. Lober: You can come here next month prepared to say whether we desire the plan or not, and we may discuss it a long time today, and really not come to any satisfactory conclusion.

"The President: This matter will be laid on the table until the next meeting. I now ask for the Treasurer's report.

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"Mr. Jiggins: A study of the account list has suggested to me that a closer understanding and co-operation between the credit and financial ends of the different companies would be of material benefit.

"While our credit terms are thirty days, a glance at the monthly account lists shows, in many cases, that it is not unusual to grant terms extending to four and five months. I believe that if the question was asked of the credit man, 'Why do you allow Smith to take five months in his settlements?' The reply would doubtless

[fol. 924] be, "That is the best I can do with him," and if you ask, "Why do you continue to sell him?" The reply is likely to be, "Because if I don't, some other fellow will."

"The long extension of credit granted is practically a rebate, and is, in my opinion, equivalent to a reduction in price, or full allowance for all bags returned. It does seem that so long as credit terms are thirty days, that extensions should not be granted over a period exceeding sixty days from date of shipment.

"The times are opportune for us to try and get settlements on a business-like basis, and be willing and courageous enough to suspend shipments when terms are generally extended as before mentioned.

"The Trade Acceptance form, as suggested by the Federal Reserve Bank, is likely in time to become more generally adopted in a number of industries, and it does seem that now, that we have a Cement Protective Association, we should be able to help forward this movement, which not only will tend to guard against overbuying, but will also obviate the necessity of the salesman and credit department dunning for money. Where we are dealing with customers who always discount or pay promptly in thirty days, there would be no need of using the acceptance, but where settlement dates are invariably uncertain, an acceptance sent with bill or monthly statement might result in material benefit.

[fol. 925] "Mr. Ackerman: Do I understand that no one is to be sold to who does not agree to this sixty days?

"Mr. Jiggins: No, the terms are now thirty days. If we grant sixty days we are granting a man a hundred per cent more than our regular terms, and if we allow him to take four and five months, to settle his bill, it is equivalent to giving him a rebate.

"Mr. Israel: I cannot agree with the last speaker, at all, on the proposition that by granting a customer a longer time to pay for his cement, that that is a rebate from the price, because it would be a matter with which we have no concern, because it is not the purpose of this organization to bring about any uniformity in the selling price of cement. On the other hand, when we sell cement on certain terms, for a certain period of time in which it is to be paid for, it should be paid for within that time, and as to any practices that the purchasers may adopt, which defeats the payment to us within the time when it should be justly made, that is a practice against which we have a right to protect ourselves, and that is the reason why it is proper that we should do all we can towards helping each other to see that purchasers do pay for goods within the time that they agree to pay for them. Just as much so as when a purchaser buys cement for a certain piece of work, we have a right to see that he lives up to his contract with us, and does not, by making an improper use of his cement, violate his contract. In other [fol. 926] words it all comes under the general category that he who makes a contract with any of us for the purchase of the cement shall live up to his contract, exactly as we are all willing to live up to our part of it. Contracts in the past have been violated in many respects,

not only in not paying in time, that is in the time agreed upon, but in many other respects. It is the purpose of this Association to protect ourselves against these violations of contracts, and also against practices that might not improperly be called fraudulent practices.

"The President: This is a very interesting subject, and Mr. Jiggins has given it a good deal of thought, and I think it ought to be discussed, and it seems to me to be a very good idea to adopt, if it is possible.

"Mr. Hilles: I am in sympathy with Mr. Jiggins' remarks.

"Mr. Lober: If we are to induce our customers who are more or less slow to use these acceptances, we have got to give them some inducement. Mr. Jiggins mentions sixty days, and that is thirty days in excess of our regular term. We do not have to worry about the men who discount, or pay in thirty days. The man who can pay in thirty days will take his five cents per barrel discount, but if we can go to our slow trade and say, 'If you will give us this trade acceptance we will take your acceptance payable in sixty days from the date of the bill, that is give you another thirty days,' you have [fol. 927] got to give them something, or they will not do it. Why should they, when they are now taking three months?

"Mr. Matthes: I am in favor of some restrictions being placed on giving time beyond the regular term. I think everybody should be held to the terms. We try to do it, as far as possible, but I think it is going to be very difficult to determine where to draw the line. A man that may take ninety days on one invoice, may get in such shape that he can discount the next invoice, and if you have him on the trade discount basis you are not going to get your money within the thirty days, and he will not get his five cents. But I am in favor of the trade acceptance, as a general thing, and the abolition of the discount."

* * * * *

"Mr. Hilles: That is what I was going to propose, but some of the gentlemen are not in favor of that. But that is good policy, and proper trade practice. Can we not establish it as a basis of working, approved by us all, that it is the sense of the members of this Association that all accounts over thirty days, when written to, shall have called to their attention that there is in existence a form of discount which they can take advantage of, and in the event of their not taking advantage of it, that we would take steps to attach the trade acceptance to the next statement that we send, or to introduce it in some proper way to be outlined by the committee. I have [fol. 928] written perhaps fifty letters in the last year, along those lines, and none of them have exactly satisfied me, and none of them satisfied the fellow I wrote to, but I think we can formulate some general method that will satisfy everybody.

"The President: I would like to hear further discussion on this subject.

"Mr. Hilles: I have been trying to digest some of the remarks that

I have heard, and I move that a committee be appointed to consider this very important subject that Mr. Jiggins has proposed, and report with one or more plans at our next meeting, some method of recommended procedure.

"Motion seconded and carried unanimously.

"The President: I appoint Mr. Jiggins, Mr. Lober and Mr. Matthes.

"Mr. Jiggins: I think the larger that committee is, the better.

"The President: I will also appoint Mr. Walters and Mr. Hilles.

"Mr. Lober: I have a letter here that I got from Mr. Blanchard, that in view of the appointment of that committee, I do not know that it is necessary to read it. I would like to say for the general information of those present, that Mr. Blanchard's idea of the greatest use of the trade acceptance was that it would be of great value to his companies and dealers who were having trouble in getting their collections in. That it would fix the date for the contractors to pay their bills to the dealer and would thus help the dealer to pay the cement company. He thought that in view of the five cents [fol. 929] discount that the great majority of the dealers would eventually get into such shape that they could discount their bills, and the trade acceptance would not interest them, but that it would very greatly interest them as a means of collecting their own accounts, and he said that in Chicago, that it was his intention to make every effort to educate his dealers to the use of that form in their own business.

"The President: I think that matter should go before the committee that was appointed.

"Mr. Walters: I ran across a little book here that some of our people picked up somewhere, and I have got a few copies of it. It is 'The Price of Cash,' and is a dissertation on Cash as a Commodity. I have a few of them, and I will leave them with the Secretary. There are a great many points that I think salesmen might be able to use. There might be something in it that you could use in writing your customers on the question of discount over the ten days' time.

"The President: I think we have enough of these, and I will see that each one of the Companies receives one.

"Mr. Lober: There is a matter that I would like to get an expression on. It has been reported to me that some of the companies in our Association have been accepting notes from their customers, the notes may be thirty or sixty days, the time makes no difference, but the notes read 'with interest,' and they are sent in to the customer on an average of ten days from the date of the invoice, and some of [fol. 930] the companies have been allowing their customers to pay their bills in that way, less the cash discount. I would like an expression from the members here as to the propriety of that method of settlement. I want to say that I personally do not believe that that is proper. I think that the discount is for cash. It may be stated that in sending in a note with interest, the customer can say that you could take the note to the bank and discount it and get the full amount of cash that he would otherwise pay you for your bill. That is true, but the customer is using your credit to get the money,

and not his own, and I do not think our companies' credit is for the use of the customer in that way. I think the customer should use his own credit, and get the cash, if he has to get it, in that way.

"The President: The question is open for discussion.

"Mr. Lober: We have had business offered to us on that basis, and we have turned it down, and it has been taken by other companies in that way.

"Mr. Israel: Is the question, whether if a man pays by his own note he is paying cash?

"Mr. Lober: He pays by note in ten days, by a note which reads, 'with interest.' The customer says he is paying this in ten days, because you can go to the bank and discount it, and get the same [fol. 931] amount of cash that he would pay you, and he takes off the five cents, because he says that is practically a cash payment.

"Mr. Israel: It certainly is not.

"Mr. Lober: He is using your credit, and not his own credit, to get that cash and it reduces the amount of credit we can get for ourselves.

"Mr. Israel: It is worse than that. If that note comes due and he does not pay it, then you have got to pay it, and you do not know whether you are going to get your money until the note is paid, and therefore, he is withholding the money from you until that time. By no course of reasoning can that be considered as cash.

"Mr. Matthes: I had an experience recently where a certain contractor wanted to purchase through our dealer, and he said he would buy Alpha cement, provided the dealer would accept from him his notes and allow the discount, and the dealer put the proposition up to us, and we turned it down, and the contractor and dealer both said they could get that accommodation from two of our member companies, and I told our traveling man that we would not agree to it, and they put it up to two others of the member companies, who turned it down also, and the final result was that the business came [fol. 932] to our company, and we are getting our payments on a straight ten days cash payment basis.

"Mr. Lober: We were one of the other companies that had that proposition put up to us, and we wrote the man that made us the proposition that we would not do it. That if he had to take those notes he could take the notes to his own bank and discount them and get the money, and that we could not permit our credit to be used in that way.

"Mr. Israel: The same thing was tried on our Company, in three or four ways, and we turned the matter down at once.

"The President: Is there any one in the room that feels that they would do a thing of that kind, or is it the general consensus of opinion that they would not do it.

"Mr. Israel: I am willing to declare myself, and I say no.

"Mr. Gilkyson: I have not heard of any such a thing.

"Mr. Walters: I did hear of a case of that kind, and I was in touch with Mr. Matthes, and it is something that the Lehigh Company would not tolerate.

"The President: Is there anybody in the room who would be in favor of doing such a thing.

"No one declared himself as in favor of this method.

[fol. 933] "Mr. Lober: Do you desire any discussion as to the results of the tabulation of the bag figures for the last three months? There is a very great divergency in the percentage of rejections. The lowest here appears to be one-half of one per cent., and there is one here which shows nearly four and a half per cent., that one fellow rejecting nine times as many bags as the other, and the average is nearly two. Now there may be causes which will explain that. It may be that the companies which show very large rejections did not have very many new bags last year, particularly the latter part of the year. The companies which show the smallest percentages may have put in many new bags, and it may be that they shipped largely on contracts, where the contractors could take good care of the bags. But there is a most remarkable difference between the high and the low figures. The highest is apparently four and a half per cent., and the lowest only half of one per cent. There are about five who are below one per cent. We have never been able to get that low, even when we had new bags, and on the other hand we have never gone as high as four and a half per cent., when we had nothing but old bags. Perhaps it would have been just as well to have let it go a little longer. The gentlemen who are not rejecting many, are the ones whom it ought to cause some study.

[fol. 934] "This is the first report, and we will have another report at the end of the next three months, and that will give us a little larger basis for averaging.

"Moved and seconded that the meeting adjourn.

"Motion carried unanimously."

[fol. 935]

Govt. Ex. No. 128

Regular Meeting of the Cement Manufacturers' Protective Association, Sales Managers' Branch

Meeting held at the home office of the Association, Room 219, Commercial Trust Building, Philadelphia, Pa., May 15, 1916, at 1 o'clock P. M.

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"The Secretary: There is no report, except that I would like to show the forms we have adopted for asking for information. They are of four sheets, put in three pieces of carbon paper, and write what you desire on the first page and sign your name. (The Secretary reads the blank form.) The Company asking for the information tears off the last sheet, and mails the three remaining sheets to this office, we keep the first sheet in our office, and the others go to the Companies from whom we desire the information. The inside sheets are shorter than the outside, that is so that your name will not go to the person from whom information is wanted."

* * * * *

"Mr. Dutton: The Universal Company sells a lot of cement through the New England States, and I think it would be well if we could arrange it so that the Eastern Manufacturers could have a report of those contracts."

* * * * *

"Secretary reads letter as follows:

"New York, April 28, 1916.

"Mr. R. E. Griffith, President, &c.

"DEAR MR. GRIFFITH: I beg to acknowledge the receipt of your favor of the 27th instant, with copy of the statistical report of the Western Association.

[fol. 936] "In judging its propriety, we must, of course, look at it in two aspects, that is, as complete in itself and as a possible instrumentality for accomplishing some results. In other words, we must avoid any act in itself unlawful and also any act in itself lawful but accomplishing some unlawful result.

"Looking at the report from both points of view, I think it is entirely proper. In itself it is simply a statement of the truth. Its purpose and effect, as I understand it, is simply to enable each manufacturer to conduct his business more intelligently by giving him the facts.

Of course, if there should be coupled with such a report any agreement or understanding, express or implied, which would govern the output of the individual manufacturer, then the report might be part of an unlawful whole, becoming, so to speak, tainted by the result to which it would contribute. But since there is nothing of this kind, it is entirely proper for the Eastern Association to follow this form.

Yours very truly, (Signed) Archibald Cox.

"The President: This pertains to the percentages of monthly capacities for 1915 and 1916. It has been suggested that we put this in our report. Is it the feeling of the members that they would be willing to report to the secretary the largest monthly capacity that they had in 1915, and what figures here should to the maximum month?

[fol. 937] "Mr. Coogan: In other words, are the member Companies willing to report what was the largest production in any one month for 1915?

"The President: Yes.

"Mr. Coogan: That fact, and only that?

"The President: I think we should go back a little further. It would be a little unfair on some Companies to put it in on an 85 per cent. basis of the capacity for the last year. I think we should stretch the limit further back than 1915.

"Mr. Israel: I think you make a mistake in getting so many figures on this statistical report, and you will observe at Chicago, where they use a certain factor of 85 per cent., and in some months

the production in that particular district was considerably greater. Figures, to be understood clearly, I think the fewer figures we have the better. If we get too many figures there I am afraid that many of us will not be able to read them. I can see no objection to any Company stating what was its largest month's production in 1915, but I fail to apprehend this discussion of 85 per cent. I don't know what it means. If it has reference to a Company being tabulated as to what it should produce, by multiplying the 85 per cent. by the highest production of the last year, I say that it is entirely out of order and beyond the province of this Association.

"Mr. Lober: It has nothing to do with that.

"Mr. Israel: I raise that point of order, and I ask the gentlemen not to make any reference to the 85 per cent., with that point in view.

[fol. 938] "Mr. Lober: The 85 per cent. has nothing to do with restricting the members' output, but the idea being that if they took just the month of one year, the largest month of one year, and multiplied that by twelve, and then took 85 per cent. of that, feeling that they could not operate up to their fullest capacity for the whole twelve months in a year, and in order to get the actual capacity they took 85 per cent. of the largest month.

"Mr. Israel: I think that use was entirely improper. What was our production in 1915 can be absolutely ascertained, whereas the production in the highest month, multiplied by 85 per cent. will not give us the production for those years. It is impractical and useless. Why go speculating, by taking the production in the largest month and multiplying it by 85 per cent., when you have the actual figures. If you want the production for 1914 you can get it in the same way.

"Mr. Lober: I think I had better make a statement of what this 85 per cent. is. There seems to be a little discussion that is away off from the mark. Mr. Mallory is the father of the 85 per cent. He states that the capacity—not the production, but the capacity—of any mill, is not twelve times the largest month's production in any period. The 85 per cent. factor was worked out by him after a lot of figuring from statistical data which he had in his possession. He said that he was confident that going back over a period of years, I do not remember now how many years, but it goes back [fol. 939] quite a number of years, and taking the largest month of each year, and taking its statistics of production and shipping, and multiplying that by 12, he got a figure as the maximum yearly capacity of that particular mill, and compiling all of them for that district, as the other Associations compile it and as this Association compiles it, he found the maximum capacity of that particular district right straight through the year. But that cannot be done, on account of the necessity for extraordinary repairs and breakdowns, stops for one cause and another. He also considered in that, the stock house capacity, and the necessary shut downs in some mills because they cannot store the material, and therefore, after all this figuring, he arrived at the figure of 85 per cent., as being the real yearly capacity of any one district, and of the whole country.

That is what the 85 per cent. means. It is 85 per cent. of the maximum. That is, 85 per cent. of what it would be running the whole twelve months. It has nothing to do with restrictions, but is simply to find out the real capacity of any district, and not of any one mill. One mill might, under certain conditions, run a whole year, but over a district, or the whole United States, 100 per cent. was impossible, and he figures that 85 per cent. is right.

"Mr. Israel: If the purpose of the 85 per cent is to arrive at what is the practical production of every separate mill, or district, we have far better information, namely, what was the production of any mill in 1914, or 1915, or 1913, and add them all together and [fol. 940] you have the actual production of the district in that year, 1913, 1914 or 1915. I do not yet see what is the purpose of the 85 per cent.

"Mr. Lober: Why, to find out what might be produced.

"Mr. Israel: What might be produced is the actual maximum capacity of all these mills. Now what will likely be produced I suppose is what they were after, and this is the best answer, by reading what we did produce in 1913, 1914 and 1915. The explanation is one that does not explain.

"Mr. Lober: I am not making this statement as my own, but I made it as Mr. Mallory's. I have never been in favor of the 85 per cent factor. I do not believe in it, and I did not believe in it. I have always said that I was much more interested in what the mills might make in any particular month, than I was in their capacity through the whole year, and it was quite possible that all the mills in a district would have favorable conditions in that month, and might turn out in the district three million barrels, and then Mr. Mallory's 85 per cent. would be too low, in that case. The 85 per cent. factor may be proper to spread over a year, but there has been a great deal of discussion in the other meetings, and at the last meeting the committee on statistics recommended that the 85 per cent. figure be cut out and some other method adopted.

"Mr. Erdell: I move that the matter be laid on the table.

"Motion seconded and carried unanimously."

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[fol. 941]

Govt. Ex. No. 129

Regular Meeting of the Cement Manufacturers' Protective Association
Credit Men's Branch

Meeting held at the home office of the Association, Room 219,
Commercial Trust Building, Philadelphia, Pa., June 19th, 1916,
at 11 o'clock A. M.

* * * * *

Mr. Bacon:

June 6, 1916.

"Report of Committee on Trade Acceptances

"The Committee has given careful consideration to the question of the Trade Acceptances, and recommends careful study of the system by each company as affecting its individual trade. While your committee is unanimously in favor of the practice involved in the general use of trade acceptances and believes it will eventually become universal, no radical changes are recommended at this time.

"The Federal Reserve Banking System aims at elasticity of currency to facilitate the conduct of general business and the proper control of credit methods throughout the country to a great extent through the use of trade acceptances: The cement industry should be prepared to keep abreast of the times and to meet changing conditions, closely cooperating with government regulations:

"In order to put the matter briefly before you, your Committee [fol. 942] herewith sets forth a concise definition of trade acceptances as follows: 'A trade acceptance is a negotiable instrument bearing on its face evidence that the obligation of the acceptor arises out of purchase of merchandise from a cement company. It is not an accommodation note. It would result in a uniform method being established for strict compliance with our terms of payment.'

"The value of a definite plan providing for the use of trade acceptances can be readily understood by reviewing the following advantages:

- "1. Would help to eliminate controversy and prove the account.
- "2. Would tend to put all customers on an equal basis providing against discrimination in terms.
- "3. Can be rediscounted by your National Bank through the Federal Reserve Bank.
- "4. Will suggest to the dealer the idea of securing a similar negotiable instrument from his customer.
- "5. Divides settlements into small units and customers are not so likely to ask for renewals.
- "6. Additional work for office more than made up for by decrease in statement work, dunning letters and salesmen's time and expenses.
- "7. No revenue stamps required as on notes and advantage of lowest discount rate to your bank for rediscounting.

[fol. 943] "A specimen form of Trade Acceptance is herewith attached.

Committee: F. J. Jiggins, Chairman; W. D. Lober, J. J. Matthes, J. L. Medler, R. W. Hilles, A. F. Walter.

“Trade Acceptance

“Philadelphia, — —, 191-.

“— after date pay to the order of ourselves, \$— Dollars. The obligation of the acceptor hereof arises out of the purchase of goods from the drawer.

To — — —.

Giant Portland Cement Company, — — —, Treasurer.

Accepted — — —, 191-.

Payable at — — —.

—————

“Mr. Bacon: I have several of these copies which I will distribute.

“Mr. Griffith: Gentlemen, you have heard the report of the Committee on Trade Acceptances, which I will ask the Secretary [fol. 944] to hand to the stenographer to have spread on the minutes, and it is now open for discussion. Mr. Lober, have you anything to say?

“Mr. Lober: The members of the Committee feel they have nothing to say; they would like to have some one else say a little something. They might want to ask some questions.

“Mr. Griffith: Mr. Lober, I would ask you how long these trade acceptances are for—how many days they give the customer.

“Mr. Lober: The Committee discussed that question very thoroughly, we spent the better part of one day threshing over that—that part of it, and we found that we couldn't come to any definite agreement as to what we thought ought to be done. There were several ideas advanced, one of them that we should, of course, not disturb our customers who are discounting their bills; that we were all in favor of—did not want to interfere in any way with five per cent. discount—it was working out nicely, and we wanted to keep it. We also felt the regular thirty day term should not be disturbed. But, on the other hand, we have a lot of customers who take more than thirty days. There were a few who did not discount, and some within the thirty day period, those men who did not take sixty days, ninety days, four months—some of them more; some of the members of the Committee were in favor of sending the trade acceptance with a letter—a statement perhaps, to all customers who had not paid at the end of thirty days, making the trade acceptance read thirty days from the date which it was sent, with interest. The objection [fol. 945] to that was that you might possibly get some of your customers to sign it, others would refuse, then the ones who were signing it and sending it in were practically discriminated against as compared with the ones who did not sign it and send it in; those men were getting the extra time without the interest. It was suggested at the end of thirty days to send trade acceptances without interest for thirty days, giving the man sixty days. The objection to that was it would practically destroy the thirty day terms; so after threshing it all over, as I say, altogether for about a day and a half, we came to the conclusion that we had better recommend no specific terms—

or time, rather, and that it would be more a matter for each individual company to try to work the thing out for the present until it had come into more general use and probably better understood among the trade and we would then possibly be in position to arrive at some uniform method of settlement by means of trade acceptances for those accounts which were not discounted. I think that covers the thing. There are several other members of the Committee who might want to say something.

"Mr. Griffith: In other words, when a man doesn't pay in thirty days you send the acceptance and that gives sixty days."

* * * * *

"Mr. Shepard: Mr. Chairman, if we suggest sixty days' acceptances, are we not, the cement companies, starting a movement that will nullify the thirty-day term?"

[fol. 946] "Mr. Griffith: If we send out 60-day acceptances our terms will then be 5¢ per bbl. discount in 10 days or 60 days net.

"Mr. Sheppard: If we could get together on terms, make our terms a little longer than they are, net terms of sixty days instead of thirty days, there would be no objection to a sixty day acceptance.

"Mr. Brown: It seems to me the committee did not realize that they were actually proposing to extend our terms to sixty days. The first proposition offered to me, was nothing in the world, as I look at it, but changing our terms from thirty to sixty days. I have either been fortunate enough or unfortunate enough to have gone through the period of changing from sixty to thirty-day terms, and I do not want to see anything done by the credit men of the cement industry that will in any way tend towards the sixty-day terms. I think everything done should be along the line of making it a cash basis and not a credit basis, and where credit is given to customers, they should pay interest. Now, I have listened with a great deal of attention to what Mr. Hilles said about the average of accounts that were not discounted being sixty days and am sorry to say I have to take issue with him on that point. Mr. Matthes suggested to me that was the fact—and I take issue with him, even although I have not been watching the collections carefully. From the time he first brought that matter up a week or so ago, I made it a daily practice to go to our cashier's desk and look over the record of the [fol. 947] checks received, and we make it a practice to put down the date of the invoice the check pays for in the cash book, so by running down each day, I could see just exactly how accounts were being paid, and I was surprised to find a good many thirty-day customers that have been discounting. I really had not expected that, but I did find a great many more were paying in forty and fifty days and a few taking as long as sixty days, and of course, we had a certain number not paying any attention at all to terms. I think it only right to distinguish that latter class, men that take ninety days, yet are valuable customers, they pay no attention to terms at all, it doesn't mean anything to them, they have to be taught what terms are; they usually haven't got the money or are

getting interest from the bank, something like that, and won't pay until they have to. Our business is being done on thirty-day terms, discount terms rather, or thirty to forty-five days. Now if you put in a trade acceptance or any kind of an acceptance dated thirty days net, it would invite people to add thirty days to that and if you don't charge interest, you are extending your terms thirty days; that doesn't mean anything else. I don't believe any man here will try to say it does, and I don't believe any man here who sends acceptances out at the end of thirty days and who gets in return a check, but who has failed to look into his account and not bothered any further about the collection of interest. Most people won't pay interest unless they are forced to through the courts, and I [fol. 948] don't believe—I want to emphasize this—we ought to do everything to indicate thirty days is long enough for a man who buys our cement. I ask you all to do that. I tell you, gentlemen, it is a step backward, a back step. It took us years to come from sixty to thirty days and we don't want to go back from thirty to sixty days.

"Mr. Hilles: There is nothing in the report about that.

"Mr. Brown: Referring to your remark and not the report.

"Mr. Hilles: My intention was, trade acceptances as proposed by the government, could be used—we eliminated practically sending trade acceptances after thirty days. The intent and purpose of my remarks, which I am sorry were not clear, was, those who are now taking ninety days would eventually be forced to buy cement elsewhere or pay us in thirty days. There is no hint of extension of those terms in this report, and I am sorry I was misunderstood. In regard to the average of sixty days, those who do not take advantage of discount, I find the same is true in our accounts as Mr. Brown, of the Alpha. A great many do pay in forty or fifty days, a few in two or three months, so that would average perhaps forty-five or fifty days. But over a period of a year, including those who we have to force and place accounts in the hands of attorneys, our average is close to sixty days.

"Mr. Israel: I am not informed of the discussion that took place [fol. 949] at the meeting of the committee, and I may be saying something that certainly occurred to them, and they threshed it out thoroughly and came to the conclusion there was not anything in it, and if I am guilty of doing that, it will be done honestly. When Mr. Brown addressed himself to the proposition of sixty days and I fully agree with him that we ought not do anything in the world to get back to sixty days after that struggle we had to get near thirty days—Mr. Tilles promptly replied, was there anything in the report about a sixty-day acceptance; then it occurred to me how would it work out to let the purchaser of the goods have the alternative of discounting, getting five cents a barrel off and giving a thirty-day acceptance? I would like to hear some members of the committee on that, that is, whether they did discuss that and if they did and turned it down, why?

"Mr. Medler: I don't like to talk on the subject again. The

thought that came up before the Committee, the impracticable side of the question; you have in your accounts a great number of those who discount, you have a great number of those absolutely sound who do not discount. Now, how would you discriminate in using your trade acceptances with those who do and those who do not discount? The first suggestion that came up, was, make our standard terms five cents a barrel ten days, or trade acceptances in thirty days—that is substantially what you said (addressing Mr. Israel).

[fol. 950] “Mr. Israel: Right.

“Mr. Medler: The bills will accumulate and sometimes they will slip up and not discount probably for a month or two. Well, you run from seventy to ninety-five per cent of those discounting—let us say substantially seventy per cent are discounting on a five and two cent basis, that seventy per cent will be wasted, are not getting our acceptances. Then it resolves itself down to thirty per cent of the accounts on which the trade acceptances could be effective. Now, what is the best practical way to put that in force? Then, finally, the thought came we have not tried out for one season the five cent a barrel discount, and the conclusion was to work a whole season under the five cent discount and see at the end of that period just what percentage of those customers remained slow pay. We may then take some very effective means of correcting whatever abuses there are in our terms of sale.

“Mr. Israel: The last suggestion seems to me pregnant with good sound meaning and sense. If we were to give the alternative of thirty days' acceptances and discounting, getting five cents a barrel off, a great many who feel now they want to keep themselves in good repute, are in just as good repute, doing all that is asked of them if we give them the thirty days' acceptances. In that way we will very badly spoil the discounting process or method. I think it is a fact that we would have a great many who now are discounting drop out, [fol. 951] and it would utterly spoil the five cents a barrel discount proposition, and I think the sensible conclusion to come to is to let's try it out and see, and then perhaps, after a while, the ones discounting will be great in number, and those who do not will be insignificant.

“Mr. Griffith: If that is the feeling of the members I suggest the matter be referred back to the Committee to report at the next meeting.

“Mr. Israel: If the idea is to try out the five cent discount and see how that works for a whole season—which I think is an excellent idea, as I said, why not lay this report on the table and then we can take it up any time we please, three, six or nine months from now. It won't require the appointment of another committee to report. We can take it up any time. I move the report of the Committee on Trade Acceptances be laid on the table.

“Mr. Griffith: All in favor say aye. (Ayes.)

“Mr. Lober: I want, before leaving the subject, to repeat what I think I said in my former remarks when you asked me to say something for the Committee. The Committee feels that for the present,

at least, it would be desirable that the trade acceptance matter be pushed by individual effort of the companies, and we could then see later on what success the individual companies who tried it, had with it, and that would undoubtedly be a help in arriving at some uniform method of using the acceptances when the Association feels they are [fol. 952] ready to adopt some such method. I know some of the companies are using them, some of them intend to try them, and I hope as many as possible will try them out during the summer, and after we have had this season's experience with the five cents discount and get to the point where we will know more closely how many customers will discount and how many will not, we can then take up the trade acceptance matter much more intelligently and will have more experience.

"Mr. Griffith: On what basis would you send out acceptances?"

"Mr. Lober: No recommendation whatever. It is for the individual to try and see how close they can get to the thirty-day basis—it is a matter of experience.

"Mr. Hilles: Mr. Medler expressed himself on that subject a few minutes ago, I think, when he said they sent them out judging each case on its merits, trying to pull ninety-day men down to sixty, and sixty days' terms to thirty.

"Mr. Medler: We are trying to get the money as fast as we can. That is to say, if I have a man paying in sixty days I am trying to get an interview with him and explain to him what this is and tell him our terms are thirty days and ask if he won't sign a trade acceptance for thirty days. If a man has been ninety days in paying I will tell him the same thing and get him to sign a sixty-day acceptance for the shipment, which is not the policy of our terms and goes against our [fol. 953] grain to do so. We try to get him from ninety to sixty days and from sixty to thirty days.

"Mr. Griffith: As the matter has been laid on the table, I will ask Mr. Lober if he has anything to say on the Philadelphia Credit Men's Association, which was taken up at the last meeting."

* * * * *

"Mr. Medler: I should like to get an expression of opinion from the meeting as to what is considered good practice in the way of a bill of lading covering bags in transit not yet received when taking the cash discount. To put a concrete illustration, supposing a man has shipments until the 15th of the month and promptly on the 24th or 25th, within the discount period, he sends his check, the amount of the invoice would be, say \$250, his check would amount to \$150 and he encloses a bill of lading for enough bags to make up the difference after deducting his discount. Now, it has been my understanding that it was not considered cash payment to take a bill of lading for bags in transit, and I have sent these checks back. The wrath I have brought down upon me has been so severe that I would like to know what other members of this meeting have to say on the subject before I know whether or not to stand by my guns.

"Mr. Israel: It strikes me Mr. Medler's practice is exactly right. Anything else merely means the customer is setting himself up as a

judge and jury to decide every bag he sent was in splendid condition [fol. 954] and was all right and a full credit must be allowed for the same.

"Mr. Medler: Of course we would adjust our differences when received at the mill.

"Mr. Israel: That is simply another controversy. I will stick by what I said, that you are absolutely right. See what the others think about it.

"Mr. Griffith: Gentlemen, this is a very interesting subject, allowing credit for bags on the way in settlement before they are received at the mill.

"Mr. Israel: See what each one says about it.

"Mr. Lober: Mr. Medler's question is not what we ought to do, but what we are doing?"

* * * * *

"Mr. Lober: Mr. Medler brought that discussion up at one of our meetings. I looked into it, and it occurred to be possibly our customers were doing that. I knew there were deductions made for sacks. I looked it up and found occasionally there were cases of that kind and our cashier had been accepting on account and holding up the receipt until we got the sacks, and they were all right. We want our practice to be the same as the others.

"Mr. Israel: Gentlemen, I hope this practice will become universal—not to do it, as really, it is almost impossible to differentiate between allowing a check which was sent and which would not be received until long after the discount period and allowing for cement bags sent and which you do not receive until after the discount period.

"Mr. Griffith: It seems to be unanimous they have not been allowing credit for bags on the way."

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[fol. 955]

Govt. Ex. No. 130

Regular Meeting of the Cement Manufacturers' Protective Association, Sales Managers' Branch

Meeting held at the home office of the Association, Room 219, Commercial Trust Building, Philadelphia, Pa., June 19th, 1916, at 12 o'clock noon.

* * * * *

"Mr. Griffith: Mr. Coogan suggests that the committee report at the next meeting after they have conferred further with the Western Association as to reporting information with this Association.

"I feel it is very valuable for this Association and the members of this Association to have the information from the Western Association as there are a great many points the Eastern Mills ship into

that are close to their mills, and we should know what is going on—what has been going on in their territory. It is the feeling of the members, we will ask them to make their report at the next meeting after the thing is definitely settled, as the Western Association has just been formed. The same committees were asked to take up with the Universal the filing of New England contracts.

"Mr. Swett: I asked for Pennsylvania and New York contracts.

"Mr. Griffith: Will they do it, Mr. Swett?

[fol. 956] "Mr. Swett: Yes.

"Mr. Griffith: I think that answers the question raised at the last meeting.

"Mr. Swett: I think the committee should be continued until we can see the Western Association.

"Mr. Griffith: Mr. Swett, in going over their reports, are they anything like the reports we are having made up by the Eastern Association?

"Mr. Swett: I have not seen them.

"Mr. Griffith: As far as report of contracts, statistics and credits.

"Mr. Coogan: The information we got from their reports is practically the same as this Association is furnishing, with the exception of prices, and their information is very much more involved—a great deal more work, as they have gone into more detail than we have; at the present time I feel it is not any more effective than our Association, there is more work involved and more detail.

"Mr. Israel: Mr. Chairman, in order to bring a matter officially before the Association, and without discussing the matter at all at this time, I move a copy of our constitution and by-laws, a copy of the minutes of the Association up to this day, be sent to the Federal Trade Commission.

"Mr. Griffith: That includes also copies of contracts, statistics, credits and freight books?

"Mr. Israel: Oh—together with copies of contracts, statistics, credit information, freight books—is there anything anybody can think of I have not put in the motion?

"Mr. Coogan: I second the motion.

"Mr. Griffith: Gentlemen, you have heard the motion; all in favor please say aye. (Ayes.)

"Contrary no. So ordered."

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[fol. 957]

GOVT. EX. No. 131

Regular Meeting of the Cement Manufacturers' Protective Association, Credit Men's Branch

Meeting held at the home office of the Association, Room 934, Commercial Trust Building, Philadelphia, Pa., July 17, 1916, at 11 o'clock A. M.

* * * * *

"Mr. Walter: I was absent at the last meeting, and I have been considerably interested in the remarks of Mr. Medler, as well as the others, in reference to this question. Now, the practice of the Lehigh Company has been just as explained by Mr. Medler. We do not consider it a proper sort of a settlement to accept a bill of lading for sacks which have been shipped and are en route, as part payment of the bill, and allow a discount. Those sort of settlements are returned, and we instruct the customer that he must pay the full amount of the bill, less the discount, and must not deduct anything for bags. Now, there are cases in which we accept a settlement with bags deducted before the credit memorandum is issued, such, for instance, as a credit proposition where we believe that anything at all that we get is better than nothing, and if the account is over time, ninety days, four months, five or six months, if we should receive a check, and it would show say \$25 or \$30 taken off for bags which have just been shipped, we would take the check on account and write the customer we would give credit for the bags when we received them, and if the credit memorandum was less than the amount deducted, we would expect him to make up that difference. That is the way we handle the bag proposition in connection with settlements. That applies to the Virginia Company, as well as the Lehigh."

* * * * *

"Mr. Griffith: Any other business you would like to bring up, gentlemen? If there is nothing else, it is in order to adjourn, excepting I would like to say we are all going to lunch together at one o'clock at the Union League, and then have the meeting of the Sales Managers afterward.

[fol. 958]

Govt. Ex. No. 132

Regular Meeting of the Cement Manufacturers' Protective Association, Sales Managers' Branch

Meeting held at the Union League, Philadelphia, Pa., July 17, 1916, at 3 o'clock P. M.

* * * * *

"Mr. Bacon: The suggestion was made to me by Mr. Gowan, of the Lehigh, that the companies who shipped to both districts should divide their shipments. In other words, file the contracts east of Ohio with us, and in Ohio and West Virginia with the Western Association, and of course the Western mills who ship to the East should file their contracts with this Association; but I know at the last meeting there was some talk of that and it did not meet with the approval of this Association. I did not say anything about it,

but that was the suggestion that was made. The object of it was, I think, to pro rate the dues to each Association. That is one suggestion that was made. Mr. Gowan says, 'Go back to your Association and if they do not like it, let them make a suggestion and we will agree to it.' "

* * * * *

"Mr. Israel: One of the most important things which concern the interests of this business is a proper system of cost accounting. It has been said no man can intelligently sell that of which he does not know. One includes this and omits that, and the other has a system that includes what formerly was omitted, but he omits something else. We ought to bring about a uniform cost account so that each of us and every one of us computes our interest in the same manner, and let that one be accurate, through the assistance of the best accountant we can get. Now, this subject was first mentioned six months ago, and I was always informed that the National Association had it in hand, and six months have gone by, and nothing has been done. It would have been invaluable to us in these six months had we this information. I think, Mr. Chairman, a committee should be appointed to take the matter up and report at our next meeting. I would like something definitely done in the line indicated, and I move, Mr. Chairman, a committee be appointed, a committee of three, for the purpose of taking up the [tol. 959] subject of cost accounting.

"Mr. Griffith: Is that seconded?

"Mr. Coogan: I second the motion.

"Mr. Griffith: Gentlemen, you have heard the question, that a committee of three be appointed to take up with the main Association the question of cost accounting as to what they have done. All in favor will please say 'aye.' (Ayes.)

"Mr. Coogan: Has the information which the National Association has been published?

"Mr. Griffith: Up to December, and they are *are* still working on it.

"Mr. Coogan: There is nothing new since December?

"Mr. Griffith: Not that has been published. They are still working on the proposition.

"Mr. Coogan: As I remember the matter of cost accounting, they have been working on it for some time, have made a great many recommendations and the recommendations in a general way have never been adopted nor approved by a number of the companies, and the companies, on receiving the information and suggestions have not even put into effect the recommendations as made by the committee. It seems to me it would be almost useless to try to pull through something which apparently is not satisfactory to most of the companies; that is, they are not willing to change their methods of accounting to agree with the recommendations of the Association.

"Mr. Israel: Mr. Chairman, there are sixty-five or more cement [fol. 960] manufacturing companies in the United States of America, and it is not at all surprising there should be a great diversity of view. Those sixty-five companies are scattered all over the United States, with the exception of those represented around this table to-day. We are in close touch with each other and we can agree upon something in less than a month. We have done things as important as this and we can do this. There is nothing about arriving at a system and method and formula for determining your costs that is so mysterious or so difficult that you need to be afraid to undertake it. If it were not so important I would not be urging it, but it is very important. I am backed up in my opinion by Mr. Hurley, the Chairman of the Federal Trade Commission, and I think we are all willing to concede he knows what he is talking about. He mentioned it as a most important thing, and we have not touched it. We are here for the purpose of giving information to each other, and here is the most important matter of all. We say, 'Well, we don't act on this because the National Cement Association hasn't acted.' We have done many things every year where there was a great diversity of view; there isn't that difference here. We can agree on things we have a right to agree upon. We have a right to agree upon a proper formula for determining cost and to go at the thing and do it just like we have done other things here, and before you can say 'Jack Robinson' it will be done. I want to say I do not want to be a member of that committee. I have made the [fol. 961] motion, but I want it distinctly understood I do not want to be on it. I am not shirking work and am willing to do the work from that standpoint, but I am not doing this thing because I want to be on the committee. I want to see it done and I think the delay we have had is more than necessary. I do not think anyone can say we have not waited long enough. We have waited six months, and it concerns us directly, and I think the Committee should be appointed.

"Mr. Lober: Before you put the motion I would like to ask if he will accept an amendment that this committee to be appointed be requested to invite one of the main Association Committee on Cost Accounting to meet with us at our next meeting and at that time tell us just what they have done and what they are doing in connection with the report.

"Mr. Israel: Do I understand you right that you don't want the committee appointed at all?

"Mr. Lober: No. Appoint your committee and have that committee invite one of the members of the Association to come here next time.

"Mr. Israel: I most assuredly will accept that.

"Mr. Griffith: Gentlemen, you have heard the motion that a committee of three be appointed to confer with the Chairman of the present cost accounting system and report at the next meeting. All in favor will say aye. (Ayes); to the contrary, no. So ordered. I will appoint Mr. MacFarland, Mr. Israel and Mr. Moyer on that

[fol. 962] committee, to confer with the Chairman on Uniform Cost Sheets of the Portland Cement Manufacturers.

"Mr. Israel: I will amend the motion and make the number of the committee four instead of three.

"Mr. MacFarland: I think it better to appoint somebody besides me.

"Mr. Dutton: I would make a suggestion, it seems to me in getting that information together, wouldn't it be much easier for members of the Association directly connected with the Accounting Department in the different cement companies rather than in the selling end of it?

"Mr. Griffith: Mr. Conn has been working on that. This committee is to make a report at the next meeting. Then, if you decide what action you want to take, go ahead and do it."

* * * * *

"Mr. Moyer: Several gentlemen had a little informal gathering in New York last Friday, and they took up their old contracts, and it seems there is an immense number in the city of New York, far greater in number and volume than elsewhere; it was suggested this Association have a man in New York to go over the information and find out what jobs were actual and specific, largely for the purpose of assisting individual members in entering into a contract which is actual and real, it being generally believed the best time to cancel a contract or get out of a phony contract is just before entering into it instead of going through all this terrible rigamarole through two or three months, possibly getting into complication with the dealer, and it was the general opinion that one man in New York could be of great assistance in that direction.

"Mr. Griffith: It now comes to the question of employing a man for New York City to look after these contracts.

"Mr. Moyer: I make that as a motion.

"(Motion seconded.)

"Mr. Griffith: Gentlemen, you have heard the motion. All in favor will say 'aye.' (Ayes;) to the contrary, no."

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[fol. 963]

Govt. Ex. No. 133

Regular Meeting of the Cement Manufacturers' Protective Association, Credit Managers' Branch

Meeting held at the home office of the Association, Room 932, Commercial Trust Building, Philadelphia, Pa., August 21, 1916, at 11:30 o'clock A. M.

* * * * *

"The Secretary: I have a letter I would like to read. I wrote to the Mid-West Bureau asking for some information on a corporation

about which I have been asked by one of our companies to gather. The answer I received is this:

"Mid-West Cement Credit & Statistical Bureau
111 West Washington Street

Chicago, August 14, 1916.

Mr. Charles W. Bacon, Secretary Cement Mfrs. Protective Association, Commercial Trust Bldg., Philadelphia, Penna.

"DEAR SIR: Answering your letter of August 3, in regard to furnishing credit information on the Coast & Lakes Contracting Corp., Cleveland, Ohio. We have no information on file.

"I might add that Mr. Gowen, Mr. Wilson and myself had a talk with Col. Buckingham, our attorney, today regarding several matters, one of which was the question of exchanging information with your association. Col. Buckingham expressed the opinion that under our by-laws, as they existed today, we would not be justified in furnishing you with any credit information because the eastern association is not 'a subscriber' to the Mid-West Bureau.

"The whole situation is to be discussed further during the meeting of the Portland Cement Association in Detroit, September 11, 12 and 13.

Yours truly, W. D. Allen, Secretary.

"The reason I bring it up is, on the suggestion that we forward no further information until the matter is thoroughly cleared up."

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[fol. 964]

GOVT. EX. No. 134

Regular Meeting of the Cement Manufacturers' Protective Association, Credit Managers' Branch

Meeting held at the home office of the Association, Room 932, Commercial Trust Building, Philadelphia, Pa., September 18, 1916, at 11 o'clock A. M.

* * * * *

"The President: I regret to state that we have not a quorum, and therefore, we will consider this an informal meeting. Nothing can be done to bind the Association at this meeting. I will be very glad indeed, to go on with the meeting, the same as if a quorum were here, with the understanding that nothing is binding on the Association. Is that correct, Mr. Israel?

"Mr. Israel: Oh, undoubtedly.

"Mr. Christ: Our action will be ratified at a later meeting, then?

"Mr. Israel: It practically means that you have got to bring it up at a new meeting.

"The President: Therefore, Mr. Stenographer, there will be no use in taking a report of this meeting.

"(An informal discussion thereupon took place which was not reported by the stenographer.)

"The President: I just call your attention now that we have a quorum, and we will proceed with the regular order of business. Mr. Cover and Mr. Smith have come in and that gives us a quorum.

[fol. 965] "The next in order is the minutes of the last meeting. As the minutes have been printed and sent to the members, what is your pleasure, gentlemen?"

* * * * *

"The President: * * * New Business. I would like to state that at the conference of the Committees appointed by the Mid-West Bureau and the Cement Manufacturers' Protective Association to go into the best methods of interchanging information, it was decided that when the Mid-West Bureau had amended its by-laws, or made other changes in the method of distributing information, which would meet with their attorney's approval, all information issued from both Bureaus will be available to the members of each Bureau. A conference will be arranged as soon as possible between the attorneys representing the two Associations for the purpose of making this possible. Mr. Gowen, representing the Mid-West Bureau, felt it advisable to have a meeting between Col. Buckingham and Mr. Cox, and the officers of the Mid-West and Eastern Association, and change their by-laws so that the interchange of information would become operative about October 1st. Their by-laws, unfortunately, restrict the distribution of information only to members, so after arranging that and making the changes necessary, I understand that after that date we will receive all information from the Western Association, and as our by-laws do not have to be changed, we can give them [fol. 966] any information they require from this Association. It was a very good meeting, and I am glad to report progress. I think it very essential that all the eastern members should have the same information as compiled by the Secretary of the Mid-West Association.

"Mr. Israel: All it requires is, that the Western Association should amend or change its by-laws, in order to give information to one that is not a member of that Association, namely, to our Association?

"The President: Yes.

"Mr. Israel: When they have done that, then, in fact, it will be perfectly legal to exchange information?

"The President: Yes.

"Mr. Israel: That will be very satisfactory.

"The President: And they will give us sufficient copies of their contracts, credit reports, etcetera, after their by-laws are changed, so that each member of this Association shall receive same.

"There was also a long meeting of the Trades Practice Committee, where everything in the proposed form of contract quotations was carefully gone over, and a number of points were referred back to the Committee, and will come up for discussion at the December meeting.

"Mr Cope: Of the National Association?

"The President: Of the National Association.

"Mr. Hilles: We have a number of Associations, and in referring [fol. 967] to these different Associations, I think we ought to be careful and name each Association by its correct name. There is no Eastern Association. We should call this Association by its right name.

"Mr. Israel: I suppose in referring to the National, Mid-West and Eastern, it indicated those we were talking of, but it might be well to follow Mr. Hilles' suggestion.

"The President: The subject we were talking of in an informal way, I think we can now have formally discussed, and that was, with reference to the five cents a barrel discount. Whether that should only be allowed to customers who did not owe you overdue accounts. That I think will be inserted in all the forms in the future, but, in the meantime, it is open for discussion, gentlemen."

* * * * *

"Mr. Hilles: I am satisfied.

"Mr. Israel: There are some gentlemen who have entered the room since we had the informal discussion upon this subject, which was informal only because we had no quorum. At a certain given time we had a quorum, and then the matter was brought up by the Chairman, and I made this motion. Now, if the full import of my motion is not clear to anyone who came in the room since this all began, I want simply to say a few words, namely, that the question was put by Mr. Medler, of the Atlas, what do the gentlemen of this Association consider, or what do the Companies in this Association consider is the [fol. 968] proper practice in a case where a purchaser owes past due accounts—in other words, past accounts overdue—and he undertakes to settle with you those past due accounts by giving you a note or acceptance—I mean, of course, for a certain running time. Does that settlement wipe out his past due accounts, so that he no longer stands in the position of owing past due accounts? Has the situation now been created where there exists no past overdue accounts, and he is, therefore, entitled upon any purchase he may make to the cash discount? Or does he stand in the position of one who owes a past overdue account, and, therefore, is not entitled to the cash discount, because our terms are, that only such purchasers are entitled to the cash discount who do not owe any past overdue account? Therefore, so as to bring the matter formally before you for discussion, so that no misapprehension will exist arising from it, I made the motion that it is the sentiment of this Association that one owing a past overdue account is not entitled to the cash discount, and that a settlement so-called, made by note or acceptance, shall not be considered payment of that overdue account, or to repeat, that a purchaser shall not be

entitled to the cash discount if a past overdue account remains unpaid, and a settlement by note or acceptance is not payment of that overdue account.

"Mr. Cope: May I ask if this is with reference to future arrangements?"

"Mr. Israel: Sure.

"Mr. Cope: Because there are cases, some of us have been talking [fol. 969] about where some dealers have a plan to settle their past overdue accounts with a number of cement companies and get on a new basis."

* * * * *

"Mr. Dutton: The effect of taking a note is, that the overdue account is paid.

"Mr. Israel: I explained to the Association that it is not. I am sorry you were not here.

"Mr. Dutton: Whether it is paid, or whether it is not, as Mr. Cope just stated, it is going to bring in another matter which we have to watch, and make trouble for the credit department, as well as the sales department. We have a whole lot of things on our hands, and it seems to me that this will make matters just that much more complicated. We start in and all agree not to do it, and all insist upon it, but this Association does not cover all the cement manufacturers, the shippers and cement manufacturers in the east. We have a lot of eastern manufacturers who are not represented here every month, or who don't belong to our Association, and I don't see any advantage in further complicating matters.

"Mr. Israel: What point do you want to bring up?"

"Mr. Dutton: The bad thing about it, to my mind, is not to allow him, until he has paid his note, the five cents discount on his new sale. That is what I don't agree with.

"Mr. Cope: Neither do I.

"Mr. Dutton: I think that is going to complicate matters. We [fol. 970] have a lot of manufacturers, who don't come to these meetings who will not live up to that. I think we have done a good deal, but we ought to go slow in this matter until we straighten out and close up the old accounts."

* * * * *

"Mr. Israel: I am doing so much talking, I am getting ashamed of myself. I recognize the force of the argument that if some of us do this, and some of our manufacturers do not do it, that those who do not do it will get some business that we won't get, or any of us get, and to the extent that that may assume a shape, a large shape, just to that degree it becomes very important, but the converse is also true to the extent that it will not prove large in quantity, [fol. 971] it becomes minimized and unimportant. I am rather inclined to think that the gain to be made by the adoption of the motion will far outweigh the disadvantages we would suffer by the

defeat of the motion. As I understand it, in the cement industry, or in the business, among other unfair things which have been practiced upon it, some of them almost reaching what could properly be called fraud, there has been this thing of making the cement company banker for the customer. The cement company is in the business of making cement and selling it, at a profit. It is not a banker, or in the business of banking, but the persistency of the purchaser in that respect encouraged by the complaint that some would do it and others would not, causes them to insist upon our being banker, and that makes the cement business a very onerous affair. So, we started out with what I thought was an excellent idea, encouraging men to pay promptly by allowing a discount of five cents a barrel, if paid within ten days. The idea of that was, that the greater number that paid us in ten days will increase and keep on increasing, until the cement business in respect to the matters I have referred to will be on a respectable basis, on a business-like basis. Now, if you are going to let a man not only give us a note of acceptance, or let me put it this way: If you are not only going to overlook the fact that he don't have to pay in ten days, while you do let him pay in thirty days, you are going to let him do further than that. You [fol. 972] are going to let him pay in a note for sixty or ninety days, if you please, and then that shall be looked upon as an absolute payment, and he is entitled, on any future purchase he may desire to make, to the cash discount, by way of discount. Why, don't you see, gentlemen, in this rule that you have adopted, or rather established, the advantage that will accrue to you by the proposition you have made to the purchaser, if you pay in ten days, we will give you five cents a barrel discount, will be wiped away. Why, you are then practically putting every purchaser in the shape where he can't see that there is any great temptation for him to pay you in ten days. What is the use? We may just as well pay you in a note. A note is taken, and he is put in shape to get his five cents discount on any future purchase he may make after that. He is getting you to be banker for him. He is getting your money. We are going right on in the same old way. The only way we could get him to reduce his payments is by taking a note from him and by allowing him five cents a barrel discount. Is it not placing a premium upon non-payment within ten days, or it is placing a premium upon non-payment in ten days, by taking his note, and saying, 'Thank you, you have paid me in United States notes,' which, of course, he has not done, except to the extent of having the note discounted. I just want to say what I said when we had the informal discussion, before we had a quorum, that the consensus of opinion of the best lawyers in this country and the best judges in this country, founded [fol. 973] on the best opinions of the best business men, because that is how these conclusions are arrived at, is that so-called payment by note is no payment at all, but when you receive your debtor's note, you are simply receiving, as it were, something in the shape of additional security. That is all. You can't pass the original account he owes from hand to hand by endorsement for dollars and cents,

but you could a note. You can take it to bank and discount it, but, of course, you are responsible for it. You have also got something where, if you want to sue him, he can't make any defense to the original account for which the note was given. He can't say the cement was no good, or this, that and the other thing about the condition or color of the cement. That is the effect of it, but it does not pay the account he owes you for cement and the courts say you can sue on the original account for cement and totally ignore the note, as if it were not given, the only consideration being that you must surrender the note, of course, to the man when bringing this suit. So, if you are going to tell a purchaser, 'Yes, this is just the same as if it was gold coin, or United States notes,' it seems to me you are simply encouraging non-payment in ten days, and will permit him to pay by note and take advantage of the discount. I think the proposition of five cents a barrel discount if paid in ten days is going to be the practical way.

"Mr. Cover: Since I recognize that we should all agree not to accept [fol. 974] a note as payment in ten days, but should insist upon the cash wherever the five cents is allowed, in so far as the original account is concerned, what Mr. Israel has told us is entirely in sympathy with my views, when he says it is better to get the open account in the form of a note, rather than have it on your books for a customer to dispute over the things left open. These notes can be used, as he stated, at bank or otherwise. Therefore, it strikes me that this will not decrease or increase the taking of the cash discount by taking a note on open account running over thirty days. Now, certainly, there is another great objection to this plan, as outlined in his motion, which the other gentlemen have not mentioned, and which was brought up, as some of you will remember, at the meeting of the Trades Practice Committee at Chicago. Suppose a dealer has taken a contract, and the party to the contract does not get his money promptly, as is often the case, and that contractor is not in a position to take the cash discount from the dealer, and the dealer is not in a position to pay you and take the cash discount, until the contractor does the same with the dealer, now, do you mean to say that dealer shall not have the right to discount his bills for his current requirements because he is not able to take his discount on that other contract? Don't you see that to make a rule as sweeping as your motion is, that you are forcing the dealer to either discount everything, or else not discount at all?"

"Mr. Dutton: Let me say in addition to that, if Mr. Cover will [fol. 975] excuse me. I shall very quickly get down to facts. Suppose that a small dealer takes a contract from a contractor who did not discount his bills, and the man said he could not afford to sell him any more, and he could not purchase any more, which could not happen, perhaps, in a big city. Suppose he later secures a contract from another, who was taking his discount, wouldn't that prevent the dealer on a small capital, from taking advantage of the discount? While the contractor was really taking advantage of the discount, he could not take advantage of it, himself, because this old contract

was still held up. That puts the dealer in an awful bad position, and that is the reason why, as I have already stated, we should look at this thing from a practical point of view, and see whether or not it will prevent us from putting the dealer in that position.

"Mr. Medler: There are just enough holes punched in these arguments to make them rather worthless. A dealer who is in a sound financial condition could go to his bank and on his contract could borrow the money to discount his bills. He is in a better position than we are to do that. Where a dealer has not capital enough to discount his bills, where he has a good contract, we can send him to his bank and make him explain the situation, and in that way, the burden would not be on the cement manufacturers. That is where the money is, and he can borrow it there.

"Mr. Israel: Just a second. There seems to be a misapprehension about this motion. This motion is not offered to mean that if [fol. 976] a person owes an overdue account we should not sell him any cement. This motion is that we should allow five cents a barrel discount, if the bill is paid ten days afterwards, provided he owes no overdue account. That is the purpose of it. The purpose is to make him pay his past overdue accounts, and get them cleared up, and if it is not to the interest of everyone of us to do that, and there seems to be much interest manifested by the discussion upon the subject, why, then, gentlemen, it follows that we are not good business men. What Mr. Medler has said is only too true. When you take a man's note, that, of itself, should satisfy you that he was of proper credit and proper standing, and he proper standing, and he could discount that note, himself, in bank, and get the money, and pay us with money. That is the best place to get it. If he gives you a note, your account won't be paid. We want to do away with the giving of a note. We want to get the actual money from him and give him five cents a barrel off, to encourage him to pay promptly. You can keep on selling him cement, but you could not allow him five cents a barrel while he owes you a past due account. Now, he wants to receive that five cents a barrel, and the consequence will be that he will pay you his overdue account. That is what we are after, to get the past overdue accounts paid, plus future accounts reduced to ten days' payment, with five cents a barrel off.

"Mr. Erdell: I would like to ask Mr. Israel a question. Suppose John Jones owed the Coplay Company an account, and you took [fol. 977] his note to pay that account—you would do that, wouldn't you?

"Mr. Israel: We would have to do it.

"Mr. Erdell: And a week from that, he came around and ordered a car of cement to be shipped at once?

"Mr. Israel: Yes.

"Mr. Erdell: Would you ask that man if he was going to pay his bill in ten days after shipping the car, and if he said, 'Yes,' would you say, 'We can't discount your bill, because you have not paid your old account?'

"Mr. Israel: I will answer that question. I will not say to that man, 'Are you going to pay in ten days?' He knows I can't ask that question—.

"Mr. Erdell: If he wanted to pay in ten days to get the discount?

"Mr. Israel: If he came around at the end of ten days and wanted five cents a barrel off, I will say, 'No, because you are not entitled to it,' and just let him have an experience or two like that, and he won't settle his account with a note after that. He will pay us as he ought to, right along, with money, and particularly when he has got a good contract, he can take his note to bank and get the money.

"Mr. Dutton: I want to put a practical question to Mr. Israel. Now, this is a case that could very easily occur. Suppose we sell John Jones cement for resale to John Smith, and John Smith does not discount his bills. Consequently, John Jones, my dealer, can- [fol. 978] not discount his bills. He has not enough capital to do it. A little bit later a contractor comes into the town, where this dealer, our representative, is, and secures a certain contract, and says, 'I will buy Saylor cement. I will buy it through the local dealer.' He goes to the local dealer, and says, 'am going to buy Saylor cement through you. I am going to take my five cents a barrel discount.' Now, we won't give the dealer his five cents a barrel discount because he owes that other contract yet. The dealer, therefore, has to handle that cement for practically cost, because the contractor is taking his discount, and we don't give it to him, and the dealer can't take advantage of the discount. When my dealer finds he can't take advantage of this discount for this work, he says, 'I won't sell you any more.' This contractor then goes to the other dealer in town, who is all right in his account, and buys from him and gets his discount. Now, another dealer gets the business. The contractor wants to use Saylor cement, but he can't give the business to my dealer, because he has not got his account paid up on the old contract, and he has no capital at all to pay it. As I said, the principle behind all this is good, but from a practical standpoint, I am afraid it is going to bring in lots of trouble. I think there are too many of these conditions on the side that are going to upset what we are trying to do. I think a good many of you gentlemen can see the logic of the view I take of the matter.

[fol. 979] "The President: Why couldn't the Coplay Cement Company get their own men together and take it up at the next meeting?

"Mr. Smith: It seems to me the points by Mr. Cover and Mr. Dutton and Mr. Cope are very well taken. Mr. Medler referred to the fact that a cement dealer can go to his bank and get money off his note. I think, perhaps, he loses sight of the fact that the majority of the dealers are in small towns where they only have one or two banks, and it is almost the invariable rule in these small banks that they will not loan money except on two-name paper? Now, how is he going to get a man to go on his two-name paper? He can't get it without. He can't take his single name note, and get the money to pay his cement account with, not as a rule.

Therefore, I think that the point made by Mr. Cover is very well taken. It seems to me we have talked about this for a long time, and we are getting no nearer a solution. Therefore, I move that the matter be laid on the table until another meeting.

"Mr. Cover: I second the motion.

"The President: You heard Mr. Smith's motion, gentlemen, that this matter be laid on the table until some future meeting. Are there any remarks?

"Mr. Hilles: There is another motion before the house.

"Mr. Israel: A motion to lay on the table is always in order.

"The motion was duly carried."

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[fol. 980]

GOVT. EX. NO. 135

Regular Meeting of the Cement Manufacturers' Protective Association,
Sales Managers' Branch

Meeting held at the home office of the Association, Room 932,
Commercial Trust Building, Philadelphia, Pa., September 18, 1916,
at 2 o'clock P. M.

* * * * *

"The President: Mr. Israel, I believe you have something you want to report on Cost Accounting.

"Mr. Israel: I am sorry to find that today there are but thirteen companies represented, and so far as the General Sales Managers are concerned, there are but twelve companies represented at this meeting. This matter of Cost Accounting is one in which absolutely nothing at all can be accomplished unless something which is absolutely essential in regard to it is done by everybody. Now, it is a very poor occasion to suggest a proposition that requires the unanimous consent and promise to do of twenty-three companies, when only twelve are present. I am perfectly willing, Mr. Chairman, to state the result of the work of that Committee, but I will tell you at the outstart that it won't avail us anything, because the part that the Association itself has to do is the simple thing of being present, so that it may be considered as to whether we will or will not do the thing. That is the first fundamental essential—to be present.

"The President: We have an arrangement for a meeting on Thursday, of next week. I think all the members will be there. Therefore, if agreeable to you, it may be just as well to put off your report until that time.

"Mr. Israel: I will be only too glad to do that. In fact, I wanted to do that.

"The President: New business. I should like, if you desire, to have reports of the first fifteen days' shipments of every month as regular reports.

"It was moved and seconded that reports of the first fifteen days' shipments of every month should be issued each month.

"The motion was duly carried.

"The question of whether five cents a barrel discount should be allowed on accounts when there is an old account outstanding, over thirty days, was discussed, and it was moved and seconded that this matter shall be referred to the Committee that has it in charge, to report at the next meeting.

"The motion was duly carried."

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[fol. 981]

Govt. Ex. No. 136

Regular Meeting of the Cement Manufacturers' Protective Association,
Credit Managers' Branch

Meeting held at the home office of the Association, Room 932, Commercial Trust Building, Philadelphia, Pa., October 16, 1916, at 11:30 A. M.

* * * * *

"The President: Gentlemen, you have all received the printed minutes of the last meeting. It is in order to have them read, or accepted as printed.

"Mr. Cox: There is one point that was not quite clear on reading the minutes. On the third page of the Sales Managers' meeting there is a reference to a meeting on the Thursday of the next week—that is, the week following September 18th, and it does not appear in the minutes what that meeting was, and I would suggest that some one might, perhaps, state what occurred at that time, so that the minutes will be complete.

"Mr. Coogan: In connection with the suggestion that Mr. Cox makes, I would state that that refers to a meeting held at the Northampton Country Club, at Easton, on September 28th, at which meeting the question was taken up as to the dedication of the Allentown-Easton Road, and that a fund up to \$10,000 should be provided for this purpose, and since that time, notices have been sent to all the member companies regarding their assessment and plans. I guess you are familiar with the details. One other question it was thought might be brought up at the meeting was the report of Mr. Israel on Cost Accounting, but, unfortunately, there were not very many accounting officers present, and we felt it better to have that report made at a regular meeting of the Protective Association, so that we could have the matter fully discussed.

"Mr. Cox: As I understand then, the meeting at Easton was not a meeting of this Association, but a meeting of the manufacturers interested in that new cement road.

"Mr. Coogan: That was it.

[fol. 982] "The President: That is correct.

"Mr. Cox: I brought that up, because I consider it important that all meetings should be fully reported, and that is the reason I wanted the record complete."

* * * * *

"The President: Unfinished business. At the last meeting the question was raised as to allowing the discount of five cents a barrel when there was an overdue account. That was laid on the table until this meeting. The question is now open for discussion, gentlemen. In explanation of the matter, I may say that there was quite a discussion as to whether it was advisable to let a customer take the five cents a barrel discount when there was still an open account overdue. As this seems to be rather an important question, I would like to learn the feeling of the members present, as to whether they are allowing the discount if a customer owes you an account still overdue. There was a great deal said at the last meeting, and we would be glad to hear anything further you may have to say.

"Mr. Coogan: My understanding is, that no company make a general practice of doing that. I believe that there are some who do it, but not all the companies.

"Mr. Lober: I was not present at the last meeting, and all I know about it, is, what I read in the minutes, and, perhaps, it might be proper for me to make a statement of what I think should [fol. 983] be done and what we are doing, because I was not present.

"In the first place, in looking over that discussion in the minutes, it seems to me the gentlemen who talked took two different standpoints. Some talked from the Sales Department standpoint, and some from the Credit standpoint, and the difference of opinion came right there.

"As far as we are concerned, we believe, from the credit standpoint, that a customer who owes an overdue bill is not subsequently entitled to the discount on his current bill.

"As a matter of fact, when a bill comes due in thirty days we are entitled to our money, and when that customer discounts a later bill in ten days, he is using your money to discount your bill. That is the way we feel about it.

"Now, on the other hand, the dealer on a great deal of business—carload business—only gets five cents a barrel profit. There will occasionally crop up instances where a dealer, who is reliable, may be, perhaps, sixty days overdue, and for some reason he is unwilling to take the discount on his regular bills. He may not be in financial condition to do that. Possibly, he can't borrow the money, and yet he still wants us to continue selling to him. We feel that it is safe to continue selling him carload lots, and, in the meantime, he continues to sell cement to a contractor on a certain job, and that contractor may insist on his having the five cents in ten days, because he could get it from the cement manufacturer if he bought direct. [fol. 984] That being the case, if the cement dealer does not discount his bills on that job, he gets no profit. Now, those particular in-

stances, so far as I can see, have got to be handled each on its own merits. I don't think it is right that the man should have the discount when he owes an overdue bill, but, as I say, if you don't make some sort of an arrangement, by offering him a special commission, or whatever you chose to call it, he has got to handle that particular contract, or carload, or whatever it may be, without any profit.

"Now, we have in some very few instances allowed the customer or dealer to discount some bills for that particular reason, and no other, when he has had an overdue account."

* * * * *

"Mr. Medler: We did that with a very large dealer in New York, who absolutely refused at any time to meet his current bills in ten days. We had a long overdue account, and we declined to accept the cash discount on his current shipment. That was after the invoice had run sixty days overdue, and we lost his account. We have adopted the general practice that we will not allow anybody the cash discount on the current shipment where there is an invoice sixty days from date of shipment on our books.

"The President: May I ask how your quotations read? Have you got the clause or stipulation, thirty days net, or five cents a barrel discount in ten days?

[fol. 985] "Mr. Medler: They state thirty days net, and five cents a barrel for cash within ten days, but we have up at the present time the question of the change which we may put in.

"Mr. Jiggins: Counsel advised us that under the past wording of our quotations, our customers had a right to the discount on bills even if they still owed us an account over thirty days. That was the reason we changed our quotations. That seems to be the crux of the whole thing, whether you gentlemen want to change the wording of your quotations and contracts, or whether you want to leave them as they are, and settle for yourselves hereafter as to whether you will accept the discount or not."

* * * * *

"The President: You have heard the remarks of all the members present in reference to their feeling in this matter, and it seems to be the consensus of opinion that it is advisable to endeavor to change the wording of their quotations and contracts, if it has not already been done.

"Mr. Coogan: Now, Mr. President, I would like to ask if this is not a matter that is entirely outside of the scope of this organization? Isn't it a matter for the general association? For example, suppose this organization does pass a resolution recommending the adoption of that clause, what are you people going to do with your competitors in the Mid-West, provided the Mid-West do not see fit [fol. 986] to adopt such a clause? If we are to have uniformity, the simplest way would be to pass it, the same as this organization, but we don't know whether or not it is going to be adopted gen-

erally, or not. In fact, I am in a position to say that I don't think, myself, the resolution will be adopted in the Mid-West.

"Mr. Hilles: I don't think this is a resolution. It was merely an expression of opinion.

"Mr. Coogan: The President said it was the consensus of opinion to do so by adding it to the forms.

"The President: If the individual company sees fit to do so. Not as a resolution.

"Mr. Coogan: I think, by all working together, you will do more real good and get good results, but I do not think you will get good results simply by adding that to the forms. We know there are cases that it simply would not cure, and it does not seem to me like good business.

"Mr. Hilles: I, therefore, suggested this expression of opinion, which was not to be regarded as a resolution, but simply as an expression of opinion, and if the Resolutions Committee of the Protective Association desire to take it up, all well and good. If not, no harm is done.

"Mr. Coogan: I think that it weakens your position, because you gentlemen all admit that there are cases where you have got to make an exception, and that they come up, in the general run of business, very seldom. I don't see where you are going to strengthen matters by an expression of opinion.

[fol. 987] "The President: We feel that we should put the clause in, regardless of whether any other companies do it or not, because we consider that it is essential to our collections, and it is simply a matter for each company to decide for themselves, not as an association matter, but as an individual matter."

* * * * *

"The Secretary thereupon read Mr. Cox's letter, as follows:

"New York, Oct. 7, 1916.

"Mr. R. E. Griffith, President, &c.

"DEAR MR. GRIFFITH: Referring to the proposed amendment of the by-laws providing for the exchange of information with other associations collecting like information, I beg to advise you as follows:

"The proposed amendment is framed in more or less general terms with a view to covering all cases of the kind that may arise. It contains two limitations,—(1) that the information must not be of a kind outside the scope of the constitution of your Association, which is desirable from a legal point of view, and (2) that the Association must direct the Secretary concerning the whole matter.

"The immediate object is to exchange information with the Mid-West Association. I have had a conference with Col. Buckingham, [fol. 988] counsel for the Mid-West Association, concerning the matter with the following results:

"The Mid-West Association and the Protective Association embody the same ideas and thoughts. Both proceed upon the assumption

that in such matters it is not enough to avoid anything contrary to the letter or spirit of the law, but also necessary to prevent any misconception or false inference. The only important difference between the two associations is in the ways adopted to deal with the latter. The importance may perhaps be made plain by an illustration:

"Taking the case of any staple and highly competitive commodity which, for economic causes, inevitably brings about the same price in the market at any particular time, there is always some opportunity for a person unfamiliar with conditions to speculate as to why the price is the same, although any one connected with the business knows that it results inevitably from the application of economic laws. Those connected with the administration of the laws, private parties who are of the litigious disposition, prosecuting attorneys, jurors, etc., are, unfortunately, not very familiar with economic laws. A mind in that condition is apt to seize upon any explanation that may satisfy it; and if to substantial similarity in price it can add communication between the manufacturers of the commodity, it is apt to infer or conclude that the price has resulted from the communication and find an agreement or conspiracy in restraint of trade, notwithstanding the statement of the manufacturers [fol. 989] that their communications had nothing whatever to do with the price of the commodity.

"Simply to guard against false inference or misconception of the kind thus illustrated, both the Mid-West Association and the Protective Association have regarded it as absolutely essential that there should be nothing in the nature of communications between the members of the Associations except such as are definitely and completely embodied in writing which can be produced at any time and thus leave no room for inference as to the nature of the communications. The Mid-West Association carries this out by restricting communications to reports on printed forms. The Protective Association accomplishes the same thing by having everything said or done at meetings taken down verbatim and preserved. Both are proceeding along precisely the same lines, the difference being merely in the mechanism.

"The information collected by the Mid-West Association is the same information which the Protective Association collects, except that it is somewhat less complete in some particulars. There is accordingly, no possible reason why the information of each should not be made available to the other, and it is desirable, because the fields of the two Associations overlap to some extent.

"The arrangement made (subject, of course, to the approval of the two Associations) was that the Secretary of the Mid-West Association and the Secretary of the Protective Association should send each [fol. 990] other a sufficient number of their respective reports in the form each Association uses for distribution to the members of the other Association. Thus, a member of the Protective Association will receive from its Secretary precisely such information collected

by the Mid-West Association as a member of that Association receives from it; and a member of the Mid-West Association will receive from its Secretary precisely such information from the Protective Association as a member of the Protective Association receives from it.

"At our conference, it developed that there are objections which may fairly be called insuperable to any other plan, and the plan proposed seems fair and right enough. It is certainly open to no legal objection.

"Yours very truly, Archibald Cox."

* * * * *

"The President: We have looked into this matter very carefully, and we find that it is a very serious affair not to list it on our bills of lading, if we return sacks to the customers. Therefore, we put it on the bills of lading, and the railroad company invariably bills us for the cost of returning those empty sacks to the customer, whether they go with a car of cement, or whether they go separately.

"Mr. Cope: They bill to us, and we bill to the customer, after the [fol. 991] freight goes forward. We charge the freight.

"Mr. Coogan: There is no reason why they should occupy much space. We put them in, and list it on the bill of lading, and if the railroad company collects the freight from the consignee, why that freight is collected, in addition to the freight on the cement. Therefore, we have absolutely nothing to do with it. As a matter of fact, I think the actual practice is, even although it is listed on the railroad bill of lading, the freight is not collected. It is more often listed to them as a car of cement, and it is up to the railroad company then.

"Mr. Lober: You can give your dealer a list showing what bags had been shipped.

"Mr. Coogan: When you ship empty bags, you should list it on the bill of lading, and whether the railroad company collects the freight or not is a matter for them. We do that with a mixed load of cement. We do not do it with a carload of cement. Less than a carload we stick in the bags, and list them.

"Mr. Cope: And list it as a car of cement?"

"Mr. Coogan: No.

"Mr. Swett: In less than carloads you put in the bags?"

"Mr. Coogan: Yes. That is under the classification.

"The President: The gentleman who brought this up wanted to get the feeling of the different members as to how they were handling this, and it seems to be the general consensus of opinion that in the future, when a customer asks to have bags returned, we will put them in the next car of cement that is shipped, and so state it on the bill of lading. Is that the feeling of the members present?"

* * * * *

[fol. 992]

GOVT. EX. NO. 137

Regular Meeting of the Cement Manufacturers' Protective Association,
Sales Managers' Branch

Meeting held at the home office of the Association, Room 932,
Commercial Trust Building, Philadelphia, Pa., October 16, 1916,
at 12:30 o'clock P. M.

* * * * *

"The President: Last Friday a week, Mr. Cox and I went to Chicago and met Col. Buckingham and Mr. Gowen. On Mr. Cox's return, he wrote me a letter, which I will ask the Secretary to read, if you desire, in reference to changing our By-Laws, so that we can exchange information with the Mid-West Association, and they, contra, will exchange their information. In view of the fact that a copy has been sent to all of you, and it has already been read at the Credit Managers' meeting, it stands approved, it having been voted upon by them.

"Now, gentlemen, we come to new business, Mr. MacFarland, I believe, has a suggestion to offer.

"Mr. MacFarland: I want to offer this resolution:

"To make our statistics more complete, I offer the following resolution, viz.:

"That each member report to the secretary the annual productive capacity of his operation, and that the Secretary tabulate and send to each member a copy of the tabulation.

"The President: You have heard the resolution of Mr. MacFarland. Is it seconded?

"Mr. Coogan: I second it. I would suggest, Mr. MacFarland, that a letter be sent by the Secretary to each one of the members embodying that resolution.

"The President: I think that is a good suggestion.

"Mr. Cope: Is that for the present year?

"Mr. MacFarland: For the present year.

"Mr. Cope: Past production?

"Mr. MacFarland: Past production."

* * * * *

[fol. 993]

GOVT. EX. NO. 138

Regular Meeting of the Cement Manufacturers' Protective Association,
Sales Managers' Branch

Meeting held at the home office of the Association, Room 932,
Commercial Trust Building, Philadelphia, Pa., November 20, 1916,
at 12 o'clock noon.

* * * * *

"The Secretary: One other resolution was passed as to a report on capacity. I have not received all the figures, and for that reason no report has been issued, but will be in a very few days."

* * * * *

[fol. 994]

GOVT. EX. NO. 139

Regular Meeting of the Cement Manufacturers' Protective Association, Credit Managers' Branch

Meeting held at the home office of the Association, Room 932, Commercial Trust Building, Philadelphia, Pa., December 15, 1916, at 11 o'clock A. M.

* * * * *

"The Secretary: I have no report, except to say that the Mid-West Bureau have notified me that they are now ready to exchange all information with the Cement Manufacturers' Protective Association. I have received their credit reports, and have sent them our credit reports. Their credit reports will be sent out to the members of this Association within a few days, and in the future all information will be exchanged.

* * * * *

"The President: * * *

"The next in order is new business. In this connection I would like to state that we had an informal meeting of a number of credit men who happened to be in the hotel in connection with the annual meeting of the National Association in New York two days ago, and a number of matters were brought up that were very interesting to the credit men, especially the way that credits were reported by the Western Association as compared with the Eastern Association, and also as to the mode of the collection of accounts in the Western Association as compared with the Eastern Association. [fol. 995] There has also been compiled a statement, and I don't know whether you gentlemen have all received a copy of it or not, showing the condition of the different companies reporting to the Mid-West and also the Eastern Associations, as of October 31st. I expected that Mr. Blanchard would be here in time for this meeting this morning, but I received a telegram from him stating that he could not be here until twelve o'clock. I had no report made up for this meeting, but he had a very intelligent report, and I am sorry he is not here, which shows a considerable difference between their open book accounts and the Eastern book accounts."

"Mr. Jiggins: In connection with that meeting in New York, I would like to say that I find there is this difference in their reports from ours, and that is that we, in the East, are reporting all notes, and in the West they do not report their notes, nor trade acceptances,

that we consider as notes. Consequently that comparison between the East and West is not altogether correct.

[fol. 996] "The President: It would probably be a good idea for us to request the Western Association to conform to the plan that we have adopted in the East to report all notes.

"Mr. Jiggins: I feel, as I think you all do, that it is very advantageous to us to have all notes reported. Now, Mr. Gowen, who was there, and I do not know whether he was talking necessarily on behalf of the Western Association, seemed to think that we should possibly conform to the Western idea, but I told him that we preferred to continue the way we were doing.

"The President: I think you are perfectly right. I don't think we should change our present method, and I think it better to ask them to conform more to our way of requiring the members to report all notes and trade acceptances.

"Mr. Jiggins: I think if we could get them to do that, and report what notes they are carrying, along with their open accounts, like we do here in the East, we could make a better comparison between the East and the West, but as it is now, it is not a fair comparison.

"Mr. Moyer: Not only that, but the idea of reporting notes, in addition to open accounts, will give us an idea how much credit was being extended to a customer. If they don't report their notes, or trade acceptances as notes, then we can't use their credit reports. It is an advantage to every one in determining whether a much larger credit is covered by a note, or a smaller credit, and I think it is [fol. 997] better to request them to include in their reports their acceptances or notes with their credit reports.

"The President: I understand Mr. Blanchard has that matter under consideration, and will insert a column showing where notes have been either endorsed or guaranteed. That was brought out, after some little talk, at the New York meeting, and he saw the advisability of doing so."

* * * * *

"The secretary thereupon read the following letter:

"Alsen American Portland Cement Works

"45 Broadway

"New York, Dec. 2, 1916.

"Mr. Marion S. Ackerman, Treasurer, Cement Manufacturers' Protective Association, Commercial Trust Building, Philadelphia.

"DEAR SIR: Having availed ourselves of the credit branch of your Association we are reluctant to continue without contributing some tangible compensation and trust you will accept herewith our check for \$200.

"Yours very truly, W. P. Corbett."

"The President: In explanation of that matter, I would like to [fol. 998] state that Mr. Corbett is heartily in favor of this Associa-

tion in all matters pertaining to the reports, but unfortunately has been unable to secure authority from Germany allowing him to become a full member of this Association. I think as soon as he receives that authority he will become a full member of this Association. He does report his credits, does he not, Mr. Bacon?

"The Secretary: Yes.

"The President: Therefore, I feel that we should accept this check, and that we should write him a letter expressing our feeling and appreciation, and hope that he will continue to avail himself of the credit branch of the Association until he *was* full authority to join as a full fledged member. I think that is essentially correct, Mr. Stranahan?

"Mr. Stranahan: Yes.

"Mr. Israel: His principals are in Europe, I believe.

"The President: Yes. He wrote to them in Europe nearly a year ago explaining the reasons of this Association, but he has been unable either to receive a cablegram or letter giving him authority, and he does not feel like joining until he has that authority from the other side, who are the principal stockholders, I understand.

"Mr. Israel: How does the \$200 measure up to his proportionate dues?

"The President: I should say about one-third of the dues. Is there anything else, gentlemen, you would like to bring up? If not, a motion to adjourn will be in order."

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[fol. 999]

Govt. Ex. No. 140

Regular Meeting of the Cement Manufacturers' Protective Association, Sales Managers' Branch

Meeting held at the home office of the Association, Room 932, Commercial Trust Building, Philadelphia, Pa., December 15th, 1916, at 12 o'clock noon.

* * * * *

"The President: January 1st will soon be here, and I would suggest that the bills should not go out until after that time, and that the Secretary write to each one of the Companies as of January 1st, asking them to give him a statement of the number of barrels shipped for the year.

"Mr. Cope: Not including export. I think that was excluded.

"Mr. Swett: I think export was included. Later on we decided to include it.

"Mr. Coogan: My recollection is that our dues are based on everything we shipped in 1915.

"Mr. Lober: I would make this suggestion, that the Secretary take the steps necessary to enable the Treasurer to send out bills after January 1st for the following quarter's dues.

"The President: If you remember we employed F. W. Dodge Company to investigate contracts that were reported for delivery after January 1st, 1917. I will ask the Secretary to give a résumé of what has been done so far.

"The Secretary: Pursuant to the resolution passed at the last [fol. 1000] meeting, we sent to the Dodge Company during the week of November 22nd to 29th, about 2,200 requests that covered a total commitment of about five million barrels. We have received from the Dodge Company up until yesterday about 800 reports, which have been sent out to the different Companies, and they have not all had an opportunity to investigate for themselves to see whether the Dodge Company's reports are correct, but up to the present time the cancellations due to the Dodge reports amount to about 86,000 barrels. That includes one big contract that was cancelled because of the report received from Dodge. The total amount of cancellations would have been greater if the companies had not made special investigations for themselves. Of course, there are quite a number of contracts yet to be reported on. Mr. David, of the Dodge Company, is here, and will be very glad to give you any information you may desire.

"The President: Mr. David's arrangement with the Association is to investigate the contracts for thirty days, and I would like Mr. David to explain whether he would be willing to continue this arrangement, because contracts are being reported from time to time and may need investigation. I would like to hear from Mr. David in reference to this matter.

"Mr. David: We are perfectly willing at the present time to continue the arrangement, but we would like to know about what period of time these inquiries would come in. We are prepared to rush [fol. 1001] out one hundred men through the territory operated from four of our central offices in Boston, New York, Philadelphia and Pittsburgh. Of course, if it is to continue indefinitely in the future we may have more men working on these from the central offices, and will put them on permanently. We are prepared now to answer from 150 to 200 inquiries a day if we can get them in bulk enough. We have had some difficulty in getting some of the information, unfortunately, owing to the fact that some of your salesmen have told the dealers that we were doing this work for you, and that has made it somewhat difficult for us in some places, and we would request that in the future that this be not made public more than is absolutely necessary. Of course, when we were asked by builders who we were getting this information for, we have told them we were employed by the Cement Manufacturers' Association, but we do not tell them unless it is absolutely necessary. I think out of the eight or nine hundred reports that we have sent in, and about 120 came over this morning, we have not had sent back to us more than about a dozen for reinvestigation, and that will give you some idea of the work we are doing in the reports we have sent in. If you gentlemen would like to know how we distribute the information, and the manner in which we work, I would be glad to explain it.

"The President: We would be glad to hear it.

"Mr. David: We first distribute the information to our four cen- [fol. 1002] tral offices. The New England States are handled through the Boston office. New York State and northern half of New Jersey from New York, Pennsylvania and the southern half of New Jersey, Delaware and the Atlantic Coast from Philadelphia. Western Pennsylvania, the middle west and Ohio from Pittsburgh. We have men covering the territory sent out from each central office and they send in their reports to each office. In each office we have a man who is familiar with the requirements of a practical building, and he goes over the information that is sent in, and if there is anything wrong, it is re-investigated before it is sent to you."

* * * * *

"The President: You will remember that all member companies were asked to report to the Association all contracts by states, showing the amount of cement contracted for, to be delivered into the different states by the different companies. I took this up with Mr. Cox, and he is in thorough accord with the idea, and states that it is absolutely within the province of this Association to ask for a report of that character, so as to show the exact number of barrels contracted for by the different companies, which will save a great deal of trouble."

* * * * *

"Mr. Smith: It seems to me that it will be necessary to have somebody pass on the legality of every contract if that motion is [fol. 1003] passed. The purpose of these daily reports is to give information to each other, and if we hold up the reports unnecessarily that is bad faith, and I am sure no member is attempting to act in bad faith. It seems to me that when a quotation is accepted by the prospective purchaser that is sufficient evidence that there is a contract."

"Mr. Israel: We are getting right back to where we started. Our quotations provide that this is subject, however, to the approval of the company—that is, by the executive. That is not a sale. I will leave out the word legally from my motion—"

"Mr. Coogan: I would suggest the word obligation."

"Mr. Israel: That is a good suggestion, and I will repeat my motion. I move that it is our practice to report all transactions as soon as they become an obligation of the cement company."

"Mr. Swett: I second the motion."

"Mr. Cover: I would like to correct that motion. I think it might be improved if we say, as soon as they become an obligation of the cement company and purchaser."

"Mr. Israel: I will accept the amendment, and my motion now is, that we report all transactions as soon as they have become an obligation of the cement company to furnish and the purchaser to accept."

"Mr. Swett: I second the motion."

"The motion was duly carried.

"The President: Is there any other matter you would like to take up? If not, a motion to adjourn is in order.

"It was thereupon moved and seconded that the meeting adjourn. The motion was duly carried."

[fol. 1004]

GOVT. EX. No. 141

Regular Meeting of the Cement Manufacturers' Protective Association,
Credit Managers' Branch

Meeting held at the home office of the Association, Room 219,
Commercial Trust Building, Philadelphia, Pa., January 15, 1917,
at 11:30 A. M.

* * * * *

"The Vice President: My own personal opinion is that no form should be changed until it has been submitted to meeting. I think it is very much better to talk about such things and when we see it reduced to a form we may not agree on it. I think it much better not to change anything until it has been brought before a meeting and formally approved, because many people may not have machines fitted to take a report like that, or may have their records made up in such a way as to make the other report more convenient.

[fol. 1005] "Mr. Lober: Ours was not wide enough. It was a very easy matter to fold it."

* * * * *

"The Vice-President: William D. Lober was nominated for President. On motion the nominations were closed and Mr. Lober was elected by acclamation.

"W. G. Dutton was nominated for Vice President. On motion the nominations were closed and Mr. Dutton was elected by acclamation.

"M. R. Ackerman was nominated for Treasurer. On motion the nominations were closed and Mr. Ackerman was elected by acclamation.

"The Vice President: So that it may become a matter of record, I want to say that the old officers of the association felt they might not be re-elected, and therefore they readjusted to some extent the salaries in the association's office. I do not mean their own salaries. I want that to go on the record so that the new officers will know they have been readjusted and to what extent. Under the by-laws the secretary is to be elected by the association for such term as they may determine. He was elected at one of our meetings.

"Mr. Ackerman: I move that Mr. Bacon be elected secretary for one year.

"On motion the nominations were closed and Mr. Bacon was elected by acclamation.

"Mr. Lober: I move the association approve the action of the officers whose terms are just expiring, in readjusting the salaries of the office force.

"Mr. Israel: Would you not make that motion a little broader, that the association approve the actions of the officers during the past year?

"Mr. Lober: All right.

"Mr. Ackerman: I move a vote of thanks to the retiring officers for the work, time and energy given to the association during the past year.

"The Vice President: Why not combine the two motions into one?

"Mr. Ackerman: Mr. Griffith is unable to be here, we regret that he will not serve again, and I think he will probably appreciate — if we put on the minutes an expression of our sense of the service he has rendered.

* * * * *

"The President: Gentlemen, I thank you very much for this expression of confidence. I feel we have gone a long way in the last year. We have done a great deal. I only hope we can progress as much during 1917. If there is no further business a motion to adjourn will be in order.

"On motion adjourned."

[fol. 1006]

Govt. Ex. No. 142

Regular Meeting of the Cement Manufacturers' Protective Association, Credit Managers' Branch

Meeting held at the home office of the Association, Room 932, Commercial Trust Building, Philadelphia, Pa., February 19, 1917, at 11:30 A. M.

* * * * *

"Mr. Israel: I move that the secretary be authorized to send to Mr. Allen, the secretary of the Mid-West Association, a copy of the minutes of the meetings of this Association hereafter.

"Mr. Jiggins: I second the motion.

"The motion was duly carried.

"The President: Any other new business? If not, a motion to adjourn will be in order.

"Mr. Israel: I move that we adjourn.

"Mr. Matthes: I second the motion.

"The motion was thereupon duly carried."

[fol. 1007]

Govt. Ex. No. 143

Regular Meeting of the Cement Manufacturers' Protective Association,
Sales Managers' Branch

Meeting held at the home office of the Association, Room 932,
Commercial Trust Building, Philadelphia, Pa., February 19, 1917,
at 12 o'clock noon.

* * * * *

The Secretary: I will say in that connection last month I was requested by one of the companies to get up a table showing the percentage of commitments as compared with the shipments for the year 1916. As one of the companies wanted it, I thought I might as well make up a sufficient number so that every company might have it, and I did so. Mr. Mallory received that report, and he wrote me this letter:

"Edison Portland Cement Company

"New York City, February 6, 1917.

"Mr. Charles W. Bacon, Secretary Cement Protective Assn., Phila., Pa.

"DEAR SIR: I am glad to know that you have decided to send out the percentage sheet, showing the percentage relation of the contracts booked by the various member companies as compared with the total shipments to the first of each month, as, in my judgment, this information is very necessary so that each company may understand just how it stands as compared with the other companies."

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[fol. 1008]

Govt. Ex. No. 144

Special Meeting of the Cement Manufacturers' Protective Association,
Sales Managers' Branch

Meeting held at the home office of the Association, Room 932,
Commercial Trust Building, Philadelphia, Pa., April 4, 1917, at 11
o'clock A. M.

* * * * *

"The Secretary thereupon read the letter as follows:

"Clinchfield Portland Cement Corporation

"Kingsport, Tenn., March 10, 1917.

"Mr. W. D. Lober, President Cement Manufacturers' Protective Association, 932 Commercial Trust Building, Philadelphia, Penna.

"DEAR MR. LOBER: I have your letter of the 8th, replying to my letter of the 5th, and am very glad indeed to note that you appreciate the position that we have taken with reference to the Protective Association. I hope that we will be able to perfect the organization of [fol. 1009] a little Protective Association in the South next week, and inasmuch as you have your next meeting on the 19th, I beg to submit our resignation, to be acted upon at that time.

"In doing this, I want to express my full appreciation of the great amount of good that is derived from membership in your organization. I want to compliment those of you who have worked so hard to perfect the organization, and to carry out the ideas that originated in the Association. I am not unmindful of the good that we have derived, and the enthusiasm instilled into me, I believe, has done more to cause the creating of a similar organization in the South than any other one thing."

* * * * *

"W. E. Law, Sales Manager.

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"Mr. McFarland: I move that the whole matter be laid on the table.

"Mr. Cope: I second the motion.

"Mr. Hilles: I object. My motion has priority.

"The President: It was not seconded.

"Mr. Dutton: This is a very important matter, and I see no harm in discussing it at this meeting, and if a Committee should be appointed, the Committee would more or less like to have the views of the gentlemen present. In my opinion, many different matters come up which affect the Eastern and Western Associations, matters practically which the National Association possibly does not keep in [fol. 1010] touch with, and in that aspect, it may be time for the Eastern Association to take up these matters, as they interest us more, possibly, than the National Association. I see no reason why we should not have the matter discussed, so that the Committee would be able to handle it from the views of the gentlemen here present.

"The President: It has been moved by Mr. MacFarland, seconded by Mr. Cope, that the whole matter be laid on the table. Is there any discussion on that motion? You can discuss that motion, Mr. Dutton.

"Mr. Hilles: I think the matter should be put in shape at this

meeting, or the next meeting, by the appointment of a Committee as my motion calls for, and I will naturally vote against Mr. MacFarland's motion.

"Mr. Dutton: I second Mr. Hilles' motion.

"The President: Which has the right of way? I am not a parliamentary.

"Mr. Cox: The motion to lay on the table has the right of way, it having been made before the other motion was seconded.

"The President: Is there any further discussion upon Mr. MacFarland's motion?

"Mr. Dutton: My idea in wanting to discuss this matter now is, that these matters of promotion and such things like that will come up in this Association, and if it is going to lay over until the next meeting, it is just postponing it until that time. I think it might be [fol. 1011] well, if any of the gentlemen here have any views in the matter, to express themselves.

"Mr. Brobston: I think the idea would be that if the Cement Association were to join these associations, whether or not it would result in the resignation of the individual. If that is likely to be the result of it, we should go ahead and discuss it. If not, we don't want to put it through.

"Mr. Dutton: My thought was, that we would like to get at the object of their associations so that this Association would not donate a sum of money to the different dealers' associations which, as Mr. Cox, as I understand in his letter, states were entirely outside of the present scope of this Association.

"Mr. Hilles: We can't do anything until we find out the constitution and by-laws of the association, and that is what we have got to investigate.

"Mr. Coogan: Suppose after investigating the present constitution and by-laws of a dealer's association you should decide to contribute money, and at the next meeting of the dealers' association they change or amend their by-laws to do something that is clearly illegal, what position would we be in?

"Mr. Hilles: We would be in the position of being protected by the constitution and by-laws in any specific case. I think each case should be decided on its merits, whether or not we should contribute, and until that time the Committee would be able to ascertain the present condition of the association, and find out about their constitution and by-laws, and everything in that connection, and we would know whether any change had been made in the constitution and by-laws of such association before presenting it to the meeting.

"Mr. Coogan: If we made a contribution at this meeting, and they amended their by-laws at their next meeting next week in order that they could make use of that contribution for an illegal purpose, what could we do?

"Mr. Hilles: I would have to refer you to Mr. Cox on that point. If they subsequently amended their constitution and by-laws, I do not think that it would affect this Association.

"Mr. Coogan: This is a matter, it appears to me, that will lead us into too many complications, and should not be handled by the As-

sociation. I am strongly in favor of the motion to lay it on the table.

"The President: It has been moved and seconded that this matter be laid on the table. Are there any further remarks on it? If not, those in favor of the motion will say aye.

"All members present voted aye, except Mr. Hilles, who voted no.

"The motion was therefore duly carried.

"The President: The next question is in regard to reporting separately contracts and current shipments for 1916. I don't know at whose request that was brought up.

[fol. 1013] "The Secretary: You were talking about it at the office, and you said I should make a note of it.

"The President: Somebody asked for it?

"Mr. Coogan: That is for what period?

"The President: 1916; last year. Reporting separately current shipments with contract shipments for 1916. I remember now. The question was whether it would be of interest, in view of our reports as to contracts ahead, which we all have, to know as well about what we are committed for in current shipments. We have a certain amount of current trade, dealers' yards, and so on, and that is to a certain extent an obligation on us, as well as the contracts which we file here, and it occurred to us that it might be of interest to have that information, say for the year 1916, which would give us an idea of how much cement might be called for in the same line in 1917, and we would then add that amount to the commitment sheets to give us an idea how much was actually sold, and also probably how much would be likely required for this year.

"Mr. Twamley: It might be of interest to the individual company to have that information, but I don't think it would be worth much to all the companies collectively. Some of us might have a large amount of dealers' trade, and some companies may even have a small amount of such trade, but I do not think it would be very interesting to send in the amount of such trade with the current monthly shipments.

"The President: It means this: The shipments to the first of the month were some seventeen odd million barrels. I don't remember exactly the amount. If we knew that collectively all the companies in this Association are in the habit of shipping, I will say just as a rough estimate, ten million barrels in current business, we would know that all the cement that could be made in the Lehigh district was either sold, or would be taken by these current requirements to the end of the year.

"Mr. Twamley: What would be the use of telling ourselves the amount that we have sold, when we know it already.

"The President: The question was brought up for general discussion. If you don't want to do that, no harm is done."

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[fol. 1014]

GOVT. EX. No. 143

Regular Meeting of the Cement Manufacturers' Protective Association,
Credit Managers' Branch

Meeting held at the home office of the Association, Room 932,
Commercial Trust Building, Philadelphia, Pa., on Monday, May 21,
1917, at 11:30 o'clock A. M.

* * * * *

"The Secretary thereupon read as follows:

" 'Cement Manufacturers' Protective Association

" 'Philadelphia, 4/24/1917.

" 'GENTLEMEN: We hereby propose for membership in the Cement Manufacturers' Protective Association the Hercules Cement Corporation.

[fol. 1015] " 'Dexter Portland Cement Company, by Joseph Brobston. Nazareth Cement Company, by J. A. Horner. Penn-Allen Portland Cement Company, by W. E. Erdell.'

"The President: You have heard the proposal. Do you want to say anything about the proposal of the Hercules Company for membership? I should say that it would be in order to elect them by acclamation, or take a ballot.

"Mr. Cover: I move that we elect them by acclamation.

"Mr. Horner: I second the motion.

"The motion was carried, and the Hercules Cement Corporation was elected to membership, by acclamation.

"The President: Reports. Secretary's report.

"The Secretary: I have not any special report to make.

"The President: Unfinished business.

"The Secretary: There is no unfinished business to come before this meeting.

"The President: New business. Now, gentlemen, the credit men have not been together for several months. Is there anything you want to bring up to discuss? The meeting will be a kind of a joke if we do not do anything.

"Mr. Medler: I would like to get an expression of opinion as to what the members would consider good practice in accepting bags [fol. 1016] after a long delay in transit for discount purposes.

"The President: I think that is an important matter we should give some consideration to. In regard to the return of empty bags, you are aware that at present railroad conditions are such that bags do not come back with promptness, and some important customers who discount their bills do not get a credit memorandum for bags returned as it may be a month or six weeks or some such time before they are finally returned to us.

"Mr. Medler: We discovered that we were being taken advantage of and have sent back one check where the discount was taken by including the bags shipped and it has resulted in a little discussion. It may seem perhaps a little severe to the ordinary man to be charged for the bags where the shipment has been out say a month or six weeks when under ordinary conditions that shipment would be returned to the mill in a few days, but under the present embargo deliveries cannot be made promptly.

"Mr. Smith: When we have a shipment of bags outstanding for six weeks, we usually file a claim with the railroad company and the customer is credited with the value of the bags he claims to have shipped.

"The President: Many customers prefer to make their own claim.

"Mr. Medler: We insist on their doing so.

[fol. 1017] "Mr. Hilles: When we ship cement to a customer we ask him to accept the bill of lading as evidence that we made the shipment in good faith. The bill of lading is sufficient evidence to him and he goes ahead and pays his money, taking his cash discount if he wants to within ten days, whether he has received the cement or not. In like manner we take the customer's bill of lading that he has shipped the bags to us. However, there is a time clause in our contracts and that is the ten-day clause. It seems to me that we ought to change our rule to allow no discount when the bags have been out more than ten days, but, of course, that is a matter that ought to be left to the judgment of the individual company.

"Mr. Smith: This is a matter that from a practical standpoint presents many different features.

"Mr. Hilles: I agree with you.

"Mr. Coogan: I think we would make a mistake in changing our present rule.

"Mr. Medler: I am rather inclined to agree with Mr. Hilles that when a man presents a bill of lading we should take in good faith that he has made such shipment. Our company has not had much trouble except in one or two cases lately, and I think myself that there may be cases where individual judgment may be used.

"Mr. Walter: I think if we did make an exception in one case it may be possibly only postponing trouble with other customers.

"Mr. Dutton: I believe if we make exceptions it would only lead up to chaotic conditions and disputes. If a customer finds out we made an exception in one case there is trouble right away.

"Mr. Coogan: I think it would be better to leave matters remain as they are, and I would therefore move that this meeting reaffirm our present policy so far as the handling of empty bags and bag credits are concerned.

"Motion was duly seconded and carried."

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[fol. 1018]

Govt. Ex. No. 146

Regular Meeting of the Cement Manufacturers' Protective Association,
Sales Managers' Branch

Meeting held at the home office of the Association, Room 932,
Commercial Trust Building, Philadelphia, Pa., June 18, 1917.

* * * * *

"The President: * * * The next item is the question of employing men to investigate contracts in certain districts. There was a circular sent out to all of you regarding contract checking. We have for some time attempted to get some one to check over the list of contracts for Brooklyn in particular. We have had four or five names given to us as prospective men to do the work, and one man had practically been engaged, but he went to Plattsburg instead. Three or four others we asked to come in, and that is the last we heard of them. We have received several communications during the last month from members in regard to this matter, and some of them are in favor of this and suggest taking on five or six men, and [fol. 1019] possibly get up a regular organization for checking contracts. I had the Secretary send you notice to come to this meeting to be prepared to discuss that matter and if possible to arrive at some decision both as to the number of men you want and the kind of checking you want done, and also to suggest some way to get the necessary force to do the work. There seems to be a very considerable scarcity of available timber for that kind of a job. I suppose these officers' training camps are taking all the men who might be available?

"Mr. Smith: Why do you select Brooklyn?

"The President: I do not know, except that it was suggested we might start there.

"Mr. Scott: I think before anything is done, it might be well to look into the way that work is done by the Mid-West Bureau, who have had very great results.

"Mr. Smith: I think it would be better if the officers of this Association get in touch with the Mid-West Bureau and get their plan of procedure, and then present at the next meeting of the Association a plan showing the cost, the number of men required, and the full scope of the work they would like to have attended to, and then we can discuss this matter more intelligently. I would offer that as a motion.

"Mr. Erdell: I second it.

"The motion was duly carried."

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Regular Meeting of the Cement Manufacturers' Protective Association,
Credit Men's Branch

Meeting held at the home office of the Association, Room 916,
Widener Building, Philadelphia, Pa., at 11:30 o'clock A. M., Monday,
July 16, 1917.

* * * * *

"The President: The next is unfinished business. Is there anything in that line? The next is new business. I note under new business the item of bag returns for the first six months of this year, and I think it might be of interest to most of you to have not only the bag returns for this year but to have the bag returns for the first six months of last year, because there has been considerable complaint on the part of some of you that your customers were not returning bags this year, and it has been stated that the total returns have been considerably less than a year ago. The figures I believe are all in, and the secretary can give them.

"The Secretary: The figures are not quite as good this year as they were last year. They are 1.93 per cent. this year as against 2.11 per cent. last year.

"The President: Is this the rejections?

"The Secretary: Yes.

"The President: The total bags is another thing I want to bring out. In 1916, for the first six months the total bags returned, leaving out the Clinchfield, were 33,584,000, and for the first six months of 1917 37,532,000, or quite a few more bags have come back in the aggregate.

"Mr. Cope: There were more shipments.

[fol. 1021] "The President: Not enough to make that difference

"Mr. Ackerman: That is four million bags.

"The President: There is a difference of four million in the total bags returned by customers. That is equal to a million barrels.

"Mr. Ackerman: Do you remember, Mr. Bacon, what the shipment statistics show for the first six months of 1917?

"The Secretary: I forget the figures, but there was some increase.

"Mr. Ackerman: A million barrels?

"The Secretary: No; it is not quite a million.

"The President: Up to the first of July we have recovered to a large extent what we were short early in the year. Taking the individual companies, the Allentown has not received quite as many; the Alpha has received more; the Alsen has received not as many; the Atlas has received so little more that it makes practically no difference; the figures are almost the same; the Bath has received more; the Coplay has received a very few less; the Dexter has received more. There is a big difference in the Edison, because it did not get back hardly any in the first part of 1916. There is over a million bags difference there, and that would reduce the difference to three

million bags. The Glens Falls has received a few less; the Lawrence has received almost exactly the same, there being only a difference of ten thousand bags; the Lehigh has received quite considerably more pretty nearly a million bags more; the Nazareth has received a good many more; the Penn-Allen a few more, and the Pennsylvania a lot more, nearly six hundred thousand more; the Phoenix about the same or a few less; the Security has received some more.

"Mr. Cover: I beg your pardon. There is a difference of 18 per cent.

"The President: These figures show the total bags received for 1916 as 711,487 and for 1917 859,764. The Virginia has received a few less; the Vulcanite nearly five hundred thousand more. On the whole more bags have come back.

"Mr. Cover: I think we must take into account the fact that a great deal more cement was shipped.

"The President: On the whole the percentage of increase probably is not as great as is the percentage of bags returned. The report will be distributed in the usual course. Is there any other new business that anyone wants to bring up?"

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[fol. 1022]

Govt. Ex. No. 148

Regular Meeting of the Cement Manufacturers' Protective Association, Sales Managers' Branch

Meeting held at the home office of the Association, Room 916, Widener Building, Philadelphia, Pa., at 12 M., Monday, July 16, 1917.

* * * * *

"Report of Committee Appointed to Visit the Mid-West Bureau

"In accordance with resolutions passed at the June 18, 1917, meeting of the Cement Manufacturers' Protective Association, your committee on June 22 and 23 visited the offices of the Mid-West Cement Credit and Statistical Bureau, Chicago, interviewing its officers and also visiting with several individual subscribers to the Bureau.

"The general plan of the Mid-West Bureau, its financing, purposes, and detailed operations, are in the main very similar to that of our Association. The individual subscribers interviewed report themselves as satisfied with the plan of administration and services rendered. The reporting and compilation of statistics with regard to production, shipments, etc., are handled virtually the same as our Association. In addition an extensive credit record of cement producers and users in the territory covered is maintained.

"The Mid-West Bureau has developed and put in operation a plan

giving effect to one of the objects of this Association to which your committee invites particular attention:

"In the outline of the plan for this Association it was said:

"It has become common, for example, in cases of jobs in fact involving the use of, say, a thousand barrels of cement, for purchasers to contract with each of several manufacturers for, say, two thousand barrels of cement to be used on that specific job. This pernicious practice results in purchasers obtaining what, as a practical matter, amounts to an option extending over a long period, and, in the aggregate, such options induced by and based on misrepresentation impose on the manufacturer one-sided, uncertain obligations covering a considerable portion of his output, frequently curtailing his business and resulting in loss.

"It is apparent that such abuses could not exist if the truth were known. If the manufacturer knew the facts concerning the job, the amount of cement needed, whether his or some other cement was being used thereon, he would obviously be in a position to escape the disastrous consequence of such misrepresentations. The plan hereunder outlined is designed to make the truth available and thus defeat such misrepresentations and their consequences.

"Accordingly, one of the objects of this Association recited in its constitution has been to provide the manufacturer with information concerning contracts which have been made for the delivery of cement sufficiently complete to enable the manufacturer to protect himself against spurious contracts and like transactions induced by misrepresentation."

"Heretofore, this object has been attained to only a limited extent. The reporting of contracts has done much to curtail that particular species of abuse which consists in "duplication" or contracting with several manufacturers for the same cement to be used on the same specific job and by virtue of the misrepresentation obtaining what, as a practical matter, amounts to an option on the product of all but [fol. 1024] one of the manufacturers. But the reporting has not eliminated the other species of the same pernicious practice which have become known as "padded contracts" and "shipments on dead contracts." In other words, this Association has operated to curtail that part of the abuse referred to at its inception which consists in contracting with several manufacturers for the same thousand barrels of cement required for a specific job, but it has not reached the practice of contracting for several thousand barrels to be used on the specific work requiring only a thousand barrels and ordering shipments on the contract after the specific job has been completed. In an effort to curtail these abuses by ascertaining "the facts concerning the job and the amount of cement needed," this Association some months ago engaged the services of the F. W. Dodge Company to report on sundry specific job contracts. The Mid-West Bureau, with the same objects in view, has developed a service as follows: They employ a manager who has charge of an investigating service, employing therein "checkers" who travel about and investigate the facts as to specific jobs at the place where the work is being performed and

report to the Bureau the results of their investigations. Four checkers are employed at this time, but this number may be increased. The territory is divided into districts, which are systematically covered by the checkers. They report the status of each specific job contract, [fol. 1025] describing the character of the work, the percentage of its completion at the time of inspection, the approximate number of barrels required, and other pertinent information. As new contracts come in from time to time, they are placed in their proper districts, and when the checkers are again in the locality these new contracts are sent to them for investigation.

"In the Mid-West Bureau this service has proved of value in curtailing to a large extent all the species of abuses which depend upon misrepresentation as to specific job contracts, not only "duplication," but also "padded contracts," "shipments on dead contracts" and "diversion on contracts."

"The working details availed of by the Mid-West Bureau seem satisfactory, but it is necessary to explain them at length in this report. The checkers watch jobs to completion. As soon as the work is finished, checkers so report to the Bureau, and if any unshipped balance appears on the manufacturer's contract record he is advised of the completion of the work. The checkers, when revisiting a district which they have previously checked, again look over the work already investigated and notify the Bureau of its progress, thus enabling manufacturers in cases of important operations to anticipate future needs of their purchasers.

"Any subscriber of the Bureau has the privilege of asking for information on their own or other companies' contracts. A company requesting information on another's contract is notified of the report of the checker, as well as any subsequent information which may develop, as is also the manufacturer whose contract has been checked.

"The Manager of this department in the Mid-West Bureau is a practical engineer, who can verify the reports of his checkers, or, if any controversy arises as to the facts, he can make a personal investigation. All records of investigation of contracts, as well as other office detail in connection with statistics, credits, etc., are kept in the office of the Bureau and handled by its secretary.

"The Mid-West Bureau, since adopting this plan or method of checking contracts, do not issue a monthly contract report showing balances due on contracts, such as we are publishing at an expense of \$600 to \$700 per month, but issue a daily sheet showing all new contracts reported, and, at the end of the month, a statement showing total amount of cement shipped on specific contracts by each company. The total amount only is shown, and not a distribution with respect to each individual contract.

"Subscribers to the Mid-West Bureau depend entirely on checking service rendered them by the Bureau to eliminate duplication, padded or unspecific contracts, shipments on dead contracts, diversions, or such other unfair practices by the trade; whereas, members of the Cement Manufacturers' Protection Association must depend on the

[fol. 1027] monthly contract report to show such duplication or conditions if any exist.

"The first estimate of cost made by the Mid-West Bureau for the conduct of the Bureau on its present plan was \$75,000 per year. They believe, however, that this cost will be considerably reduced.

"Your committee believes that the plan operated by the Mid-West Bureau could be adopted in toto by this Association, and that this checking service, along with the service as now rendered by the Association, could be carried on at a cost of about \$35,000 a year, or a fraction over 1 mill per barrel.

"Your committee, therefore, recommends the appointment of a committee composed of the officers of the Association and three other individuals representing member companies of the Association, with full power to employ an Inspection Manager and such number of checkers as the committee may deem expedient and to provide for the proper administration of such clerical work as may be occasioned by this increased service, eliminating such of the present forms, reports, etc., as are deemed inexpedient; and, further, to provide sufficient funds to cover the increased service, the increase of the membership dues in this Association to such basis not to exceed 1 and 1/2 mills per barrel as the committee may determine; and, further, that the committee be continued in power until the increased service is [fol. 1028] installed in satisfactory operation and the committee is discharged by the Association.

"W. D. Lober, Chairman; H. M. Scott, W. G. Dutton."

"The President: The discussion of the report and the question of the adoption of the recommendation at the end is before you. I have talked to a number of the members of the Association with regard to our visit to the Mid-West Bureau and what we saw there and what we heard from certain of the Mid-West subscribers. I might say that personally I am in favor of undertaking this service, and would hope that if we undertake it and the Association desires to go ahead with it that during the present year we would work with a view to really getting it started and getting it organized and in shape, so that it will be working smoothly and efficiently before the end of the year or by the end of the year, and then during 1918 we would get the full benefit of it. We would undoubtedly get some benefit from it this year, but not the full benefit. I do not think that would be possible. There would be a good many difficulties in the way of getting this done. You all recognize the difficulty of getting the men, and the proper kind of men, as there are too many of them that are in various branches of the military service, and so on. I feel that we ought to have an expression of opinion from the various members as to whether they are in favor of this or not. [fol. 1029] I do not think it is a thing that we want to put to a vote right away, as to whether we shall adopt it and adopt the recommendation at the end or not.

"Mr. Coogan: I see the committee recommends the appointment of a committee with full power to act and put in this system. I suggest that a committee be appointed to make up a very careful

estimate and budget and plan for the working of the system, and that that budget and plan be submitted to the executive heads of the companies for vote by a letter ballot. I think, in the first place, the estimate of cost or expense is entirely too low. It is given as \$35,000. I think it involves the outlay of a considerable amount of money and the matter should be given very careful thought and our executives given a chance to look over the budget and then vote on it. I make that as a motion.

"Mr. Griffith: I second the motion.

"(Motion carried.)"

* * * * *

"The President: The resolution of Mr. Coogan was that instead of appointing the committee as recommended in this report, that a committee be appointed——

"Mr. Griffith: A committee or this committee?"

"The President: Do you mean this same committee.

[fol. 1030] "The President: —that a committee of five be appointed to formulate a full plan of organization and a budget to carry out this practice or system of checking contracts which they have in the Mid-West, the committee to submit that to the chief executive of each company for approval by letter ballot. It seems to me that it would take probably until our next meeting to get that, wouldn't it? Anyhow, Mr. Coogan's motion was that the result be submitted to the next executive meeting of the Association.

"Mr. Coogan: I have no objection to changing that part of it if anybody wants it, so as to give the officers authority to proceed with the recommendation as soon as the letter ballot is received.

"Mr. Brobston: This meeting can adjourn subject to the call of the chair.

"The President: If there is no objection on the part of anyone, we can amend the motion to read that when this meeting adjourns it will be to reconvene at the call of the chair to take official action on this plan.

"Mr. Coogan: I would accept that amendment to my original motion.

"The President: Mr. Coogan accepts that. This committee, I understand, would be a committee of five.

"Mr. Coogan: That is up to the President.

"Mr. Scott: What is the committee to be? It will be a new committee.

"The President: It will be a new committee. The members want more detailed information as to the expense and to have it approved by not only this body, but by the executive heads of the various companies.

"Mr. Scott: In other words, in order to carry out the plan, you are going to find out from the executives whether you can adopt it or not?"

"The President: It will be submitted to the executives and they will disapprove or approve of it. We are putting it up practically

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to the chief executives of our companies before we come to a decision."

"The President: We will appoint a committee of five to go on with this matter, the committee being composed of the three officers of the Association and two others, and they will submit this report with a more detailed budget, as I understand it, to the executives of the companies for a letter ballot, and then further action will be taken by the Association when it reconvenes."

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[fol. 1031]

Govt. Ex. No. 149

Meeting of the Cement Manufacturers' Protective Association, Sales Managers' Branch

Meeting held at the home office of the Association, Room 916, Widener Building, Philadelphia, Pa., at 11.30 o'clock A. M. August 6, 1917.

* * * * *

"The President: The business before the meeting today is the consideration of the supplemental report on the extended service of the Association. This meeting is a continuation of the meeting of July 16, 1917. The committee which was appointed in pursuance of the resolution adopted at that meeting consisted of Mr. Holman, Mr. Coogan, Mr. Dutton, Mr. Scott and myself. We have the following to submit:

"The committee appointed in accordance with resolution adopted at meeting of the Cement Manufacturers' Protective Association, held July 16, desires to supplement the report submitted at that meeting as follows:

"Report

"It is believed that an organization consisting of a manager and four or five checkers will be sufficient to handle the increased service. For this purpose authority to increase the dues to not over two mills per barrel should be granted, although the entire amount may not be required, and on account of probable difficulty in securing an organization the increased dues will certainly not be needed at once.

"It appears that we are at present spending about one mill per barrel annually on 28 to 29 million barrels, (although dues are only six-tenths of a mill) which necessitates additional assessments—and the increase of regular dues should be sufficient to take care of this as well as the new work.

"Your committee has not thought it advisable to figure on cutting out any of present expense, although it feels that later on some of our present reports may be discontinued.

[fol. 1032] " 'From the above it will be noted that your committee figures that the outside cost of the proposed new work will be about one mill per barrel, or \$28,000 to \$29,000—this to cover salary and expenses of manager—four or five checkers—and additional office help and expense.

" 'Your committee also desires to suggest a change in the committee recommended to carry out the proposed plan. In order to obtain a broader representation of the Association's membership in this important work, a committee to consist of five representatives of member companies, the executive officers to also act as members ex-officio, is suggested.

" '(Signed) W. D. Lober, Chairman; W. A. Holman, F. M. Coogan, W. G. Dutton, H. M. Scott, Committee.'

"Mr. Cope: You say you think the overhead charges will be about two mills?

"The President: We put that in the report as an outside figure. I don't believe it will be two mills. The Mid-West Association figured on two mills when they started out on this same service. They have found that it was considerably more than enough, and I am informed on the first of July they reduced it to a mill and a half. Now, a mill and a half, I don't believe, will be quite enough for [fol. 1033] us; probably a mill and three-quarters will carry it. The committee feels that it ought not to be hampered by too great restrictions in this respect, although they would feel that the thing should not be run with the greatest possible economy to procure the proper results.

"Mr. Erdell: I move that the report be adopted.

"The President: Any second? Mr. Erdell moves that the report be adopted.

"Mr. Swett: I second the motion.

"Mr. Erdell: May I ask for the result of the letter ballot?

"The President: The letter ballot has not been read, although we have been advised of it. I think only the committee was advised of it.

"Mr. Erdell: I think that should be incorporated. I think it should be reported in the minutes of the meeting.

"Mr. Bacon: I report that all the companies answering the letter ballot voted aye. I think they all answered except one or two companies."

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"The President: I appoint as members of the committee for the purpose of engaging a manager to conduct the checking of contracts, Mr. Holman, Mr. Coogan, Mr. Scott, Mr. Swett and Mr. Erdell, the present executive officers, to act ex officio, and I would like Mr. Holman to act as chairman of that committee. As I stated to you this morning, my annual affliction is likely to strike me and I will be departing for a more pleasant climate."

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Regular Meeting of the Cement Manufacturers' Protective Association,
Sales Managers' Branch

Meeting held at the home office of the Association, Room 916,
Widener Building, Philadelphia, Pa., at 11:30 A. M., Monday,
September 17, 1917.

* * * * *

"Mr. Holman: Your committee are very much gratified to be able to report that we have engaged the services of Mr. H. S. Gaines, who has been for some time assistant to the President of the Ohio Builders' Supply Association. Mr. Gaines has arranged his affairs in the West so that he can come with us now permanently. He is here today. Most of you gentlemen have met him. The committee felt that, of all the candidates considered, Mr. Gaines possessed the greater number of qualifications, and we believe that we have in Mr. Gaines a very high class man, and one who will successfully handle the work that you have in contemplation.

"I thought that it would be desirable, after having engaged Mr. Gaines, to communicate with Mr. Holst, who is the President of the Ohio Builders' Supply Association, and let him know what we had in mind in taking a man that I assume would be some loss to them, so that you may be interested in having me read a letter that I wrote to Mr. Holst on August 27. Mr. Holst is President of the W. O. Holst Building Supply Company in Toledo, President of the [fol. 1035] Ohio Builders' Supply Association, and probably one of the leading dealers in the State. I wrote Mr. Holst the following letter:

"DEAR MR. HOLST: I thought I should like to write you regarding our negotiations with Mr. Gaines, and express to you not only my personal feelings as Chairman of the committee, but the thought of all the committee relative to the arrangement which we have entered into with him.

"Each member was duly mindful of the excellent work which Mr. Gaines has done for your Association, and we at first hesitated to approach him on a matter which would mean the severance of his relations with you. We did so, not with a feeling of disregard for his present connection, but with the thought in mind that the work which he is to undertake will, in our opinion, be of distinct benefit not only to our industry, but to our friends in the building material business generally.

"We all felt that the nature of Mr. Gaines' experience would be very helpful to him in taking up his new work, and that his knowledge of the dealers' problems would be of benefit to the members of our Association; and while he in one way severs his connection with you and enters a new field, it is one so closely related to and so greatly co-operative with our valued dealer friends, that we hope that you and your members will feel reconciled to the change which Mr. Gaines feels is to his personal advantage, while fully appreciating

[fol. 1036] the very pleasant nature of his connection with yourself and your associates.

"Very sincerely yours."

"Mr. Holst replied, under date of August 30, as follows:

"DEAR MR. HOLMAN: I was very glad to receive your letter of the 27th inst. in reference to Mr. Gaines. It gives me an opportunity to express to you my opinion of him, and I believe the opinions of all our members of the Association who have had an opportunity of watching his work here. I have found him to be a man of strict integrity and to have constructive ability of the highest order along organization lines; he is a forceful talker and can get his ideas to the audience without useless words or flowery rhetoric.

"We are especially sorry to lose him just at this time, as we have just revised our by-laws to fit a man of his caliber, and we may have a hard time to find a man to take his place. I do not know what his duties are with your committee, but I feel that he would not undertake them unless he felt himself able to render to you good service.

"He has been in a position to judge of the problems of both the manufacturer and the dealer in so far as their dealings with each other go, and I am sure we are very glad to have a man as fair as he is on the other side of the proposition.

"I want to thank you for your very cordial letter, and to hope that our loss may be your gain.

"Very truly yours, W. O. Holst."

"The plan that we have in mind is this: Mr. Gaines, in the very near future, will go to Chicago, and spend a day, or as many days as he thinks are advisable for him to spend there, in going over the work of the Mid-West Association when Mr. Barbazette, the manager of the Association. Then when he comes back your committee plans to meet with him and, on the basis of the information that we have in hand and that we think Mr. Gaines will get by reason of his trip, we will formulate a plan of work for our Association here. We then propose to submit that plan to Mr. Cox for his approval, and I think that at the October meeting here we will be able to outline a plan to you fully, and practically have it under way at that time."

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[fol. 1037]

Govt. Ex. No. 151

Regular Meeting of the Cement Manufacturers' Protective Association, Credit Managers' Branch

Meeting held at the home office of the Association, Room 916, Widener Building, Philadelphia, Pa., at 12:45 P. M., Wednesday, October 17, 1917.

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"The Chairman: I have gathered from what I have read on the subject, that the intention of that tax was to make it a charge against the person for whose account the freight was shipped. That is the intention, but whether by our practice of naming prices f. o. b. delivery point we relieve the consignee from that liability I don't know. Mr. Cox is not here, but I think we should ask him for information on that point.

"Mr. Hilles: Have you a legal opinion on the standard form of contracts?

"The Chairman: We have from our own counsel, yes. We have in our latest form the clause that the customer pay any advance in freight rates or any tax upon them.

"Mr. Moyer: Yes, but I understand that has been eliminated by most of the companies in the East.

"Mr. Griffith: We still have it in our contract forms.

"The Chairman: You see we will have to pay that tax on practically everything. We buy coal, for instance, and we will have to pay that tax on pretty near every bill."

* * * * *

"The Chairman: There is one thing that occurs to me. If we ask Mr. Cox for a general opinion as to how this revenue tax may affect us, it is going to be a matter of some little time to get that information. This tax law is somewhat extensive and I talked informally to one or two lawyers about it and they didn't seem to know themselves just what it all means yet. This particular item of tax on freight we want advice on right away. It probably will be [fol. 1038] necessary to ask Mr. Cox to give an answer to this right away. Anything else that he may have to suggest to us he can suggest later. This one item I think we ought to get an answer to soon.

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"Mr. Hilles: I would like to call the attention of the credit men to the fact that the Portland Cement Association is appointing a committee on credits and collections, that there are several members of that committee from this district; that the committee of the Portland Cement Association on reporting credits is very anxious to make a report that would be of some value to the Portland Cement Manufacturers of the country at the December meeting of the Association. If the credit managers will think over in what way they can co-operate and assist, if they will communicate with Mr. Viets, of Chicago, the chairman of the Portland Cement Association, he will be glad to have you take up with him any questions of that kind, or you can communicate with Mr. Medler or with me and we will transmit it to Colonel Viets, because we expect to have a meeting of this committee next month and we feel that there are a great many things that might be suggested to the committee that will help them. Such, for instance, as the possibility of presenting to the Association the total amounts outstanding on the books of the cement companies

more than thirty days old, on, say, November 1, 1917, as compared with November 1, 1916 and 1915, which would give us a line on how collections were proceeding throughout the entire country. I just make that as an illustration of the kind of things we think might be worth while. Whether they would be worth while or not, I don't know."

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[fol. 1039]

GOVT. EX. No. 152

Regular Meeting of the Cement Manufacturers' Protective Association,
Sales Managers' Branch

Meeting held at the home office of the Association, Room 916, Widener Building, Philadelphia, Pa., at 11.30 A. M., Wednesday, October 17, 1917.

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"The Chairman: Now, under the head of reports, it seems to me we should have a report from the committee in regard to contract auditing work. Mr. Holman is the chairman of that committee. Is there anything you want to say?"

"Mr. Holman: I think the report would practically be the letter we sent out to all the members. That practically states the report of the committee.

"The Chairman: Do you suggest incorporating a copy of that letter in the minutes of this meeting?"

"Mr. Holman: I would be very glad to.

"The Chairman: You heard Mr. Holman's suggestion. Does anybody make a motion to that effect?"

"Mr. Cope: I make such a motion.

"Motion seconded by Mr. Griffith and carried.

[fol. 1040] "The letter referred to is as follows:

" 'Cement Manufacturers' Protective Association

932 Commercial Trust Building

Philadelphia, Pa.

" 'Office of Cement Manufacturers' Protective Association

Philadelphia, Pa.

" 'DEAR SIR: We are ready to make a beginning of contract investigation under Mr. Gains' direction for the purpose of supplying member companies with accurate information regarding contracts filed, which will enable the member companies to protect themselves against the kinds of misrepresentation and deception which have

been more or less common in so-called 'specific job contracts,' and tend to move such transactions toward a more honorable and reliable basis.

"It has come to be pretty generally recognized that these transactions, while in the form of contracts, are, as a practical matter, one-sided obligations which only the manufacturer can be compelled to perform, and it has become common to secure such contracts by misrepresentation, to serve as options extending over long periods, misleading the manufacturer in the adjustment of his selling and manufacturing operations and frequently occasioning great loss.

"The misrepresentations commonly resorted to in these contracts [fol. 1041] are duplication, padding of contracts and calling for shipments on expired contracts. The service of the Association will embrace the investigation of the facts, so that each manufacturer may be informed that he is being thus imposed upon and enabled to free himself from such contracts or shipments as are based on misrepresentation, by cancellation, refusal to ship or otherwise.

"In providing this service the Association is simply attaining more fully the object for which it was created, namely, the collection and dissemination of such accurate information as may serve to protect each manufacturer against misrepresentation, deception and imposition, and enable him to conduct his business exactly as he pleases in every respect and particular, free from misdirection by false or insufficient information. The Association does not undertake to direct or control or influence the acts of the manufacturer. It simply provides him with accurate information, which enables him to act as he chooses. If, for instance, a manufacturer has one of these "specific job contracts" calling for, say, ten thousand barrels of cement for a particular job, this service will develop the truth concerning that job, which may be that it involves only two thousand barrels or has been completed. This information will enable the manufacturer to protect himself by cancelling the contract or declining to make further shipments. But the work of the Association [fol. 1042] stops with supplying the truth. It will consist simply in ascertaining the truth, in investigation of the facts and the communication of them to the members.

"It is understood that investigations, which we shall term audits, will be intelligently undertaken and efficiently and diplomatically conducted, resulting in reliable information for the guidance and protection of members in the proper conduct of their business, together with fair and businesslike treatment of their customers, the dealer and the contractor.

"We shall not undertake investigations in number and volume at the expense of thoroughness and reliability, and with this in mind our beginning must of necessity be of moderate volume, and our growth from such a beginning will be as rapid as the proper training of an organization to successfully handle such increased work as may become desirable.

:"Investigations of Contracts now in effect:

"When suggesting investigations of contracts previously filed and now in effect, members are requested to consider only such contracts

as are not completed or nearing completion, and which, if not bona fide and legitimate, would be detrimental to the future interests of the manufacturer having such contract and the industry generally.

"As our present facilities are limited, we cannot undertake a general investigation of expired or soon to expire contracts, or other than the more important contracts of reasonable size in and adjacent [fol. 1043] to large centers of population, such as Philadelphia, New York and Boston, and the co-operation of members in making the work as valuable as possible to the future will be appreciated. Upon receipt of such requests, Mr. Gaines will undertake investigations and reports to members requesting such at as early a date as possible.

"Investigations of New Contracts from this date:

"We do not believe an investigation of every contract filed to be either necessary or desirable. The organization required to do this would be out of all proportion to the results obtained. Each company should carefully look over the daily report to members of contracts filed and the monthly report of contracts in effect, and report to the Association office any information leading such company to believe that any contract filed is not bona fide, and in what particular, which information will be used as the basis of an investigation and report, both to the company making the request and furnishing the information, and to the company making and filing the contract.

"If each member company will give to other member companies through the Association such information as it may have, we feel that investigations of contracts which are brought to our attention will correct a large percentage of abuses and misrepresentations, and, at least for the present, be as much as we can undertake for proper investigation.

[fol. 1044] "Attached herewith are the following forms, which will be used in connection with contract investigation and report as follows:

"Form No. 1.—This form to be used by members in calling the attention of the Association to 'Special Contracts' upon which they desire further information.

"Form No. 2.—This form is to be used by the Auditor on the work.

"Form No. 3.—This form to be used by the Auditor on the work.

"Form No. 4.—This form will be used by the Association when sending information on audited contracts to the manufacturers.

"A supply of Form No. 1 is being sent you for calling the attention of the Association to 'Specific Contracts' upon which you may desire further information.

"Yours very truly, W. D. Lober, President; F. M. Coogan, W. G. Dutton, W. E. Erdell, H. M. Scott, B. L. Swett; W. A. Holman, Chairman."

* * * * *

[fol. 1045] "The Chairman: In addition to that, Mr. Griffith writes:

" 'We are just in receipt of your circular letter of the 5th, explaining fully the work to be done on investigations under Mr. Gaines. I have gone over this carefully, and feel that a great deal will be accomplished by these investigations, but, as advised you, I do feel that after consulting with Mr. Cox, your attorney, a more simple way to arrive at overshipments of contracts in which a dealer places with two or three companies the same amount of cement, say five thousand barrels each, and only five thousand barrels will be required for the whole job, that if each company was to arrange to furnish to the Secretary daily a duplicate of his shipments, giving the name to whom the shipment has been made, car number, point of delivery, address, and if against contract, same to be marked accordingly, the Secretary in this way could ascertain overshipments, and I feel this would materially facilitate the investigations from now on. I would appreciate very much indeed if you will bring this matter up before the meeting of the 15th.'

"That is, of course, a matter that I am not particularly qualified to discuss, as I am not directly concerned with the sales end. It occurred to me, however, that daily reports of shipments, particularly on contracts, might be of considerable help to Mr. Gaines. That is certainly in some localities.

"Mr. Holman: I would like to suggest that that be referred to the committee. We will undertake to investigate it and report at the next meeting, because I believe that it will have a direct bearing upon the work which the committee was appointed to do.

"Mr. Griffith: Mr. Chairman, that was only suggested as a thought for quick action. I think you can arrive at the checking of contracts very much better if you know the shipments as made from each mill daily, which would apply on current business or contracts. Those shipping sheets could come down from the mills as in duplicate made out by the different mills, one to the Secretary and one to the home office, and then the Secretary could check up each shipment as it goes to New York or any point for current business or for contracts, and give us advice of the car number and the point of delivery, and it would save a great deal of time in the checking up of contracts.

"Mr. Hilles: I think the matter of the daily report of shipments should be referred to the committee which has power to act, and await their decision as to whether it should be proceeded with."

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[fol. 1046]

Govt. Ex. No. 153

Regular Meeting of the Cement Manufacturers' Protective Association,
Sales Managers' Branch

Meeting held at the home office of the Association, Room 916, Widener Building, Philadelphia, Pa., at 11:30 A. M. Monday November 19, 1917.

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"Mr. Scott: The question was discussed rather thoroughly coming over in the train of having some of the meetings in New York, or all of the meetings in New York. It seems to me that practically every one can reach New York as easy or easier than Philadelphia. How do our by-laws and constitution cover that?"

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[fol. 1047]

Govt. Ex. No. 154

Regular Meeting of the Cement Manufacturers' Protective Association

Meeting held in the Board Room of the Union League, Philadelphia, Pa., at 11:30 A. M., Monday January 21, 1918.

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"The Chairman: Now, gentlemen, as you know, we have also the minutes of two meetings last summer which the Secretary informs me were for the May and June meetings, and which were missing. These minutes have been printed and distributed, and unless there are corrections, a motion that these minutes be approved as printed is in order."

* * * * *

"Mr. Ackerman: The Hercules Cement Company during the year 1917 paid \$225.00 with the understanding that a deduction would be made to put the assessment on the basis of the actual shipments. Their shipments reported during the year made the amount of the assessment due \$62.45, so that there is an adjustment of \$162.65 to be made.

[fol. 1048] "The Chairman: My recollection in that matter is that that amount was to be credited on their 1918 dues.

"Mr. Ackerman: Then I am simply to credit them on their 1918 dues with that amount?"

"The Chairman: That is my recollection, that instead of returning it to them, we would credit it on dues. The records will show that.

"Mr. Ackerman: Then I will do whatever the records show.

"The Chairman: I neglected to say when we started the meeting that I find from reference to last year's minutes, this being the annual meeting, that we held one meeting only and did not have a separate meeting for the Credit Managers' Branch and the Sales Managers' Branch. There is no reason for our doing anything differently this year.

"Are there any other reports? Mr. Holman is not here and I do not know that he would have any special report to make for his committee if he were here. Would Mr. Gaines like to say anything in regard to his work?

"Mr. Gaines: I don't think there is anything that I can say, Mr. President. I think everybody is thoroughly familiar with the progress of the work that I have in hand. If there are any questions that any one desires to ask, I will be very glad to attempt to answer them.

"Mr. Ackerman: How many men have you under you?

"Mr. Gaines: Three.

[fol. 1049] "Mr. Cope: Are they permanently located anywhere?

"Mr. Gaines: Yes, each one has headquarters at Philadelphia, New York and Boston. The Philadelphia man is supposed to cover the territory west of, we will say, Trenton. The New York City man is supposed to cover Brooklyn and adjacent territory to New York City. The Boston man is supposed to cover New England. Any investigations that we have to make up the State in New York, which ever man is available, I send up there from time to time to clean up the accumulation of requests for investigations."

* * * * *

"The Chairman: I don't know. I think I expressed my views on the subject at the time that came up, and that we did not consider the acceptance of a note with interest ten days from the date of the bill was any ground for allowing cash discount, and that that was not cash payment.

"Mr. Medler: The question was brought up again by some of the dealers. The request was made on me. This man wanted to give a sixty-day interest-bearing note which he said he could discount. It is the same old story.

"The Chairman: He would simply be using your credit to discount his paper.

"Mr. Medler: Yes, and I told him that we would not consider it and there was no use in discussing it.

[fol. 1050] "The Chairman: If he wants to discount his paper he ought to use his own credit and not your credit.

"Mr. Hilles: It seems to me that the thing that would have the most important bearing on that question is the recent decisions of a number of attorneys, including the attorneys for the American Bankers' Association and the American Trade Acceptance Council, when they were called on for opinions as to whether or not trade acceptances and notes would be regarded as cash, and they have

rendered unqualified opinions that neither trade acceptances nor notes are regarded as cash. These opinions were rendered in connection with the various proposed amendments to the lien laws on private work and bond laws on public work being proposed before the Legislatures of the States that will meet this year. There is no other deduction to draw from it but that anyone who does allow such a discount is making it a commercial rebate or discount."

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"Mr. Cope: It seems to me that the Credit Men's end of this Association is only a very small part, the way it is being run today, and I think it is a very important part, and very essential that we get a little pep and punch into it.

"The Chairman: There is a movement, I am told today, on foot among one of the dealers' associations in this part of the country, [fol. 1051] to demand fifteen days for cash discount instead of ten, and that is a subject that might be discussed by the Credit Men. If there are enough Credit Men here today, I think that would be of interest to them.

"Mr. Cope: My Credit Man brought up a matter on trade acceptances for cash discount that they could take the same as a thirty days' note or sixty days' trade acceptance.

"The Chairman: That is another matter that we discussed some time ago.

"Mr. Dutton: I suggest that the Sales Managers use all efforts possible to get the Credit Men down to the next meeting.

"The Chairman: I think that would be a good idea.

"Mr. Barbour: Would it be worth while for Mr. Bacon or Mr. Gaines to write a note to these Credit Men and say there are important matters to be discussed and give them an idea of what the discussion would be, and perhaps that might shake them out a bit.

"The Chairman: I think to some extent it lies with the Credit Men themselves. If they have questions that they want discussed, we won't get them discussed unless they come here to do it. I hope the Sales Managers will bear that in mind and try to assist in stirring up a little interest.

"Mr. Ackerman: Do the Credit Men get notices of their meetings?

"The Chairman: Yes.

[fol. 1052] "Mr. Cope: The Credit Men don't see each other as frequently as the Sales Managers do.

"The Chairman: No, they do not. They ought to see each other more frequently.

"Mr. Ackerman: This notice goes direct to the office and is then passed on. Is that the idea?

"The Chairman: I think the notices are directed to the individual.

"The Secretary: The notice of the meeting is sent to all the Sales Managers and all the Credit Men personally.

* * * * *

"Mr. Morton: Yes, I was in Washington and had a talk with Mr. Noyes before this Committee was asked to go down, and I had a line on just what it was going to be.

Mr. J. B. Lober: Then the idea was if the representatives of the cement industry would agree with the Fuel Administrator on a plan, the Fuel Administrator would then issue an order that we would not be allowed to run over 60 per cent of capacity, and we would be held strictly to that, and would not be permitted to run anything over that."

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"Mr. J. B. Lober: Of course, the Fuel Administrator would issue an order, but he wanted this conference with the Committee in order to enable him to arrive at a plan. The Fuel Administrator could put out an order, and we will have to accept it, which he could have [fol. 1053] done without this conference, but he didn't want to do that, and he has had or will have every industry in the country down in order to reach some plan of action. I really think it would be an advantage to the industry if he would restrict the output of production to just about enough to meet the demand and no more."

"Mr. Ackerman: If they see that we get the coal.

"Mr. J. B. Lober: Yes, that would be their part, and we, on our part, agree not to make any more cement. It would then be up to the Coal Administrator to see that we got the coal. I think that it would add stability in a measure to the industry and would be of advantage to us.

"Mr. Twambley: It would lay that bugaboo of more production for a while.

"Mr. J. B. Lober: But the Government will not encourage over-production on anything, because it means labor, fuel and everything of that sort, and they want to stop that. They don't want anything more made than the country and the Government operations in war require. They want to put all their energies, of course, to the successful prosecution of the war. Of course, they realize that cement is one of those things that we got to have. What they want to get at is how much does the country require, and how much does the Government require, and then when they get at that, that is all they want made."

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[fol. 1054]

Govt. Ex. No. 155

Regular Meeting of the Cement Manufacturers' Protective Association

Meeting held at the home office of the Association, Room 916, Widener Building, Philadelphia, Pa., at 11:15 A. M., Wednesday, February 20, 1918.

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"Mr. Medler: The unfortunate thing about this is that all the companies are not represented by their credit department and we could not get any uniform expression of opinion on the subject.

"The Chairman: How many credit men are there here today? We tried to make a special effort to get them here, but it seems that we have not succeeded.

"Mr. Medler: I don't think it is worth while to discuss the subject today.

"The Chairman: Does that hold good on the other subjects?

"Mr. Medler: They are all alike.

"The Chairman: In other words, we had better pass this until the next meeting when we will endeavor to have all the credit men here.

"Mr. Hilles: I would like to ask what action is proposed to be taken to get them here.

"The Chairman: We have sent out a special request for them to attend the meeting today and I have done some telephoning myself [fol. 1055] to try to get them here. In fact, I have very little ground to talk myself, because our credit man is not here.

"Mr. Hilles: Mr. Cope promised to get his credit man here today.

"Mr. Jiggins: Would it be advisable to have a special meeting of the credit men?

"The Chairman: You mean so that these matters would not have to lay over for another month? Does anyone have anything to say on that matter? I don't know, but it seems to me these credit matters are very important and should be considered at least important enough for these members to attend the meetings.

"Mr. Twamley: May I ask what the questions for discussion are? I haven't seen a copy of the letter.

"(Letter handed Mr. Twamley.)

"The Chairman: Let us see if we can arrive at some plan whereby we can get the credit men together, either at a special meeting or to be sure that they are here at the next meeting. As I say, I haven't much room to talk, as our man is not here, although he told me yesterday that he would be here, and I don't know what could have held him up. Do you think it would be advisable to address a letter to the executives of all of our member companies and see if anything can be done to have them here at the next meeting?

"Mr. Medler: I think that would be a good thing to do to stir up interest in that branch of the Association.

[fol. 1056] "The Chairman: Now, under the head of new business, we have another matter in reference to a letter which Mr. Bacon received from Mr. Mallory, which Mr. Bacon will read.

"The Secretary: I will read this letter so that the companies can pass a resolution asking for the information set forth in Mr. Mallory's letter if they so desire:

"February 1, 1918.

"Mr. Charles M. Bacon, Secretary Cement Manufacturers' Protective Asso., Widener Building, Philadelphia, Pennsylvania.

"DEAR SIR: I have been very much interested in the statistics issued by our Association covering the total sacks returned for the year 1917, and I would like very much to be put in a position to figure out the percentage of returned sacks for our Company, as compared with that of the other companies, using the total number of sacks shipped by each company during 1917 and figuring the percentage of the total sacks returned so as to learn whether or not our company is getting as large a percentage of returned sacks as some of the other companies.

"I have already made a rough calculation which indicates that we are getting a smaller percentage than some of the other companies, and I will appreciate it if you will take the matter up and [fol. 1057] see if it is possible to obtain from each of the companies a memorandum showing the total number of cloth sacks which each company shipped during 1917; that is, eliminating the shipments in paper and wood, so that the percentages would be on a comparative basis.

"If this information is available, it might be illuminating to some of the companies, as well as ourselves, if you would work out the percentage and send the results to each company.

"Yours very truly, W. S. Mallory, President. WSM-BC."

"At the present time our bag returns show the number of bags returned and those rejected, but they do not show the number of bags shipped during the year and Mr. Mallory, I believe, wants the number of bags shipped by each company and the number returned, regardless of the number rejected.

"Mr. Griffith: Why not include that in the same report you are sending out now every three months?

"The Secretary: We don't have the number of bags shipped. The report you get is the number returned and the number rejected, but Mr. Mallory wants the number shipped also.

"Mr. Griffith: That is, make another column?

"The Chairman: I think Mr. Griffith's suggestion is very good; that is, that the report would show in the one column the number of bags shipped, in another column the number returned and [fol. 1058] in the third column the number of bags credited, so that would give us all the information.

"The Secretary: I would have to have additional information from the members.

"The Chairman: The only additional information would be the number of sacks shipped.

"The Secretary: Yes.

"The Chairman: Has any one any objection to supplying Mr. Bacon with that information?

"Mr. Twamley: I move that the information asked for in the letter of Mr. Mallory be supplied to the secretary.

"Motion seconded by Mr. Cover and carried.

"The Secretary: This letter from Mr. Mallory is for the year 1917 and also for the future.

"Mr. Griffith: Why not have it for every three months, the same as the other report?

"The Secretary: Yes, but we will have to go back one year to get it so as to cover 1917.

"Mr. Scott: Mr. Mallory's point is that our records show a tremendous number of bags outstanding in the customers' hands and we want to see if our records show a larger number than the other companies. In other words, we want to know the number of bags outstanding so that we can provide for the future and so on.

"Mr. Jiggins: I would suggest that a special letter be sent out to all companies asking for the shipments made in 1917.

"The Chairman: Mr. Bacon will send out a letter to all of the companies along the lines of Mr. Mallory's letter, requesting the [fol. 1059] information as to the shipment of sacks in 1917, and, in addition to that, we will then make this report up, as I understand it, right through the present year.

"Mr. Coogan: What advantage is it quarterly? Your bag returns show your returns for the different quarters and it might be valuable to have the shipment for the year, but I can't see where it would be valuable to keep it up quarterly. I don't see how it would be valuable, although it might be interesting to have it for the year. It shows that the bags are not returned, but it does not show where they are.

"Mr. Twamley: This bag report that shows the percentage of rejections is made up quarterly, is it not?

"The Secretary: Yes, every three months.

"Mr. Twamley: Wouldn't it be well to have this additional information on the same report?

"Mr. Coogan: My idea is to have as few reports as possible and the reports that we do have to have them as simple as possible. Anybody will admit that a three months' period would give you good information so far as the percentage of rejection is concerned, but, so far as your percentage of returns is concerned, as compared with your total shipments, I don't see that it would be valuable. Take, for example, shipments during May, June and July, and there may be a large return one year and the next year the other way.

"Mr. Medler: And for January, February and March you might get two hundred per cent return on the bags shipped.

[fol. 1060] "Mr. Brobston: From a practical standpoint, I think if you can get the information at the end of the year, that is all you want.

"Mr. Coogan: I move to amend the motion to get these figures for the year 1917 and distribute them.

"Mr. Brobston: May I make a suggestion that the reports show the total number of bags shipped for 1916 and 1917. Wouldn't it be interesting to have the total number of bags for both years?

"The Chairman: The idea then is to supply Mr. Bacon with information showing the shipment of sacks during the years 1916 and 1917, with the amount of sacks returned.

"Motion seconded by Mr. Jiggins and carried.

"Mr. Brobston: While we are on the subject of bags, I would like to ask whether the companies are still maintaining the practice of purchasing bags only from those to whom they are sold. In other words, whether the companies are still refusing to purchase bags from fences and other people who offer to sell us bags frequently second-handed, who have bought or stolen the bags. Is the practice of the companies still to refuse to buy those bags?"

"Mr. Coogan: We have been sorely tempted, but we still remain virtuous.

"Mr. Brobston: I am glad to hear that. We refused twice to buy these bags and I would like to know whether the selling of bags is being encouraged or whether the companies are still refusing to handle them.

[fol. 1061] "Mr. Twamley: We have had a number of offers of that kind, but we have not accepted any of them up to date.

"The Chairman: It is quite a temptation for the manufacturer to buy the sacks when we have to go in and buy them at the present high prices.

"Mr. Coogan: If you consider what it will lead to, it is a very bad practice.

"The Chairman: It is simply a question of policy which is going to mean something to us in the future.

"Mr. Twamley: It is simply furnishing a market for stolen bags. That is what it amounts to."

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"Mr. Brobston: We might go one step further on that point and find out the policy of the different companies as to buying and paying for the bags of firms other than their own. That question was brought up some months ago and at that time all of us stated distinctly that we would not buy any bags except our own. That was the policy of the companies at that time. Has that policy been changed by anybody?"

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"Mr. Coogan: The committee on trade practices of the Portland Cement Association recommended that the companies repurchase sacks only bearing their own brand, and I suppose outside of the Eastern district that has been pretty generally adhered to. In the East, however, there has been a practice established of allowing the [fol. 1062] five cents, and the recommendations of that committee has not been followed out in the East. My understanding is that there are any number of different practices in the East, but the one generally used is to allow five cents provided a man does not return an unreasonable number of foreign bags and then the foreign bags are interchanged with the companies on the same basis.

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"Mr. Coogan: It seems to me that is a matter of trade practice and if anybody wants any information on it, they could read the

report of the committee on trade practice of the Portland Cement Association and get all the information they might want from that report as to the proper method of handling it. My understanding is that we have no committee or any other means of handling these questions of trade practice.

"The Chairman: No, it is outside of the province of this association to take the matter up to any extent."

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"The Chairman: In reference to that matter, I would like to say that when we get the name of a contractor in a big city like Brooklyn, for instance, it is almost impossible, with some of the names we have to deal with over there, to locate that man unless we have his home address. Now, as far as getting the contractor's address [fol. 1063] in a small town is concerned, it doesn't mean quite so much, but it is important to a large extent and I think we will save a lot of time. I know, as far as our company is concerned, in investigating our contracts, we have wasted a lot of time trying to get the address of the contractor. It is hard to locate him and I think this will save a lot of time of the auditors in auditing these contracts for the association.

"Mr. Holman, was there anything you had to say with reference to the committee of which you are a member?"

"Mr. Holman: The committee on contract investigation has to report that the matter of investigation of contracts is proceeding steadily. The committee had a meeting a few days ago and discussed a very important matter, which was later transmitted to the members by a letter, calling their attention to what we consider is an abuse of contract information. A great many complaints have come to us during the past few weeks regarding the misuse of information gathered and disseminated by the association, particularly with regard to contracts and also with regard to figuring on shipments, on productions and so forth. There seems to be a condition at present whereby a great many of our customers and a great many of the contractors are very well posted with regard to contracts, shipments and productions and statistics of individual companies. The committee has no thought at all of in any way dictating to members, [fol. 1064] or indicating to them, the particular use which they shall make of the statistical or contract information, but we do feel that the indiscriminate use of such information to the extent that it becomes a matter of common property to our customers, is something that detracts very largely from the efficiency and benefit of the work. We want to strongly recommend that all of the information published by the association be used by the executives, of course, in such manner as the respective companies see fit to use it, but for the purpose largely of informing themselves and checking up the results of their sales representatives, in that way making full use of the information in accordance with the object of the association rather than utilizing the information as material for the making of sales. We find there has been a great deal of complaint in re-

gard to salesmen of various companies asking people who have placed orders with other companies why that order was placed with that company instead of with them, and a good many of the members have felt that their relationships with their customers were made unpleasant, even jeopardized by the use of information as to what they had done. I think as far as dealers and contractors are concerned it would be more advisable if they understood in a general way the purposes of this association; that is to say, the work we are doing, which we believe to be just as much for the benefit of the contractors and dealers, so far as contract investigation is [fol. 1065] concerned, as to the individual member cement companies, but when that information in detail is furnished to contractors and dealers, which has been done unquestionably, it not only detracts from the value of the information for the purposes the information is intended to cover, but it also makes very common the work which we are doing, and your committee wants to very strongly recommend that that information be used in a confidential way for the purpose of enlightening you as to the facts regarding contracts which are taken, but the information should not be given out promiscuously in any way that would unquestionably jeopardize the continuance of the furnishing of such information. I think we have covered the situation pretty thoroughly in our letter and we don't want anybody to understand that it is our thought or intention to indicate at all how the information shall be used, but we do feel that there is a clear cut purpose of that information, as outlined in our constitution and by-laws, and that the information should not be used for any other purpose.

"The Chairman: Has any one here anything to say with reference to Mr. Holman's report?

"Mr. Holman: This information is very valuable to us if used right and I think that I express the unanimous opinion of the committee when I say that the value of the information to us as individual members of the association is directly in proportion to the use that we make of it.

[fol. 1066] "The Chairman: There is no doubt in my mind that there has been some misuse of this information, but I think it is due to carelessness more than anything else, although, as far as our company is concerned, we have had some of our dealers who knew that one had this association and were reporting contracts, and they got in touch with us and asked us to furnish them with a list of contracts filed in their towns, for instance, but we have refused in every case to supply them with any such information, but you can evidently see that that information given dealers would not be used in the same way that we handle it ourselves. They use it right away as a basis to secure business. They use it in an entirely different way than we use it. They are not interested as to what contracts are filed in their town unless they can secure some tonnage from the information they get from us. There is another leak which I think exists so far as this information is concerned and that is it is very possible that a few of us are not careful enough as to where we keep our reports. Now, I found a tendency of salesmen coming

in and the first thing they wanted to do was to go to the contract reports and look them all over and then they go out and spread that information around everywhere, and that is going to hurt. As far as our company is concerned, we had a case some time ago where we filed a contract and inside of three or four days the customer advised us that five or six salesmen were in there all throwing up to him about the contract which he had placed with our company, and [fol. 1067] wanted to know why they had not gotten part of it. The contractor then had a bad feeling toward the association. He felt as if he was giving us business, but at the same time he didn't want us to take that information and put it into sources whereby everybody interested on the job came back at him and wanted to know why they didn't get part of the contract, so that I think it is very important that the information turned over to the manufacturers by the Association reports should be kept under cover and handled along the line that it should be.

"Mr. Coogan: I think Mr. Holman has brought out the point quite clearly. It was not the wish of the committee to suggest the way or method by which this information should be used, as between the different companies there might be an entirely different manner of using it. Each member may use it as he sees fit, but, at the same time, he should feel that he has the responsibility of that information not getting outside of his own organization. If you have a salesman that makes a misuse of the information, he ought not to get it, but the information, on the other hand, if you have a salesman that can use it to his own advantage, he should get it. We have put out instructions that it must be used only by our company and not to the detriment of any other company in the Association, and I don't think we have had any trouble. I think any company can decide for themselves how they ought to use this information. [fol. 1068] "Mr. Holman: Yes, we had no thought or intention of suggesting any specific method other than we thought the information should be used as information for the executives of the companies in order for them to check the operation of their salesmen and not furnish the information to their salesmen which, as a rule, would be used in a manner which would not be in accordance with the desire of the executives. The whole purpose of the information is that those in charge of the sales can be more intelligently informed by reason of having the truth, but that does not mean that everybody down the line to the office boy has to have that information, because they do not all know how to properly handle it.

"The Chairman: Is there anything further to say with reference to this matter?

"Mr. Coogan: I want to bring up a question with regard to the monthly summary of contracts. In going over that list I notice a great many contracts, some expiring December 31, 1916, and December 31, 1917, and they are still being carried on the sheets. Now their expiration dates have been extended or the contracts have been cancelled by the member companies. I notice on some pages as much as thirty per cent. are contracts which have expired either on December 31, 1917, or prior thereto and it seems to me that each com-

pany should go through their list of contracts and if they have any contracts on there which are cancelled or on which the expiration dates have been extended, they ought to notify the association so [fol. 1069] that the report may be kept up in the proper manner. I want to ask Mr. Bacon whether a contract, for instance, which the Alpha Company had, shown on the report as expiring December 31, and in January he received a notice that the date was extended to June 30, whether that would show on the next report as June 30 being the expiration date.

"The Secretary: Yes.

"Mr. Coogan: There are then evidently hundreds and hundreds of contracts which expired and which the association have not any advice about.

"The Secretary: That is perfectly true.

"The Chairman: Don't you think it is possible that some of the companies knowing that the contract expired December 31 of last year may not have gone to the trouble of notifying the association of the cancellation? What we should do, however, is, whether the contract has expired or whether the date has been extended, is to notify the association.

"Mr. Griffith: And if it is not done by the time the next report goes out, I move that the secretary write to each individual company and ask if the contracts have been cancelled or the date extended."

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"Mr. Coogan: I have one thing here that I would like to take up. In connection with this credit report, I wanted to make sure that there was uniformity in regarding these outstanding accounts which are used in making up this summary. For example, I notice that [fol. 1070] some of the companies carry either nothing or very small sums for September accounts. The same is true of August accounts. October they all have some. Some of the companies show no notes and no renewals. It seems to me that perhaps there was some misunderstanding either as to some of the companies reporting such small amounts and some nothing, and that if they reported it one month they didn't consider it accumulative and didn't keep reporting it every month. I wonder if there could be anything in that, as if it is valuable at all to us it ought to be correct."

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"The Chairman: That brings up the same subject again. We will have to have these credit men at these meetings more than we have had in the past. Have you any suggestion to make, Mr. Coogan, in reference to that matter?

"Mr. Coogan: No, except that I think each company should look up their records and make sure that they are all using the same method in reporting."

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"Mr. Brobston: What is the practice when an account is charged off as worthless? Is that still shown on the report?"

"Mr. Medler: There never has been a ruling on that question where the name has been continuously reported and then it disappears with- [fol. 1071] out having been turned over to an attorney, but the assumption is that it has been charged off.

"The Chairman: It seems to me very important that we have the information of anything that has been charged off as worthless, as the man might want to buy again, and as far as the list would show, he would be all right.

"Mr. Medler: It usually goes to an attorney when it becomes too old to collect through the ordinary channels, and you get your information in that way.

"Mr. Brobston: It seems to me there ought to be some method of keeping that record.

"Mr. Medler: Well, there would not be one case in years except for a man who had an account of five dollars or ten dollars and it wouldn't be worth while suing for it.

"Mr. Hilles: If an account is placed in the hands of an attorney that covers that.

"Mr. Medler: I think it does, if it is big enough it is sued on."

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"Mr. Coogan: I am not interested. There was a discussion here about two months ago as to the advisability of moving the offices of the protective association to New York. The New York people, I understand, there are something like seven or eight of them over there, have been taking it up, and I think it is a question we ought to decide and we ought to find out how we are fixed here on leases and find out what the sentiment is with regard to moving the office. There is only one reason why it should not be moved and that is on account of Mr. Cover, because it is rather unhandy for him, but still it would give him an excuse to come up the night before."

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[fol. 1072]

Govt. Ex. No. 156

Regular Meetings of the Cement Manufacturers' Protective Association, Credit Managers' Branch

Meeting Held at the Home Office of the Association, Room 916 Widener Building, Philadelphia, Pa., at 11.15 A. M. Monday, March 18, 1918

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"The Chairman: If I am not mistaken, about two months ago a letter was sent to all the credit managers stating that there were

several matters we would like to have brought up at this meeting. These different subjects have been gone over, and the Association, or our attorney, Mr. Cox, feels that these questions bear on matters of trade practices or trade policies and consequently do not come within the scope of this Association. Therefore, we will have to drop them.

"Mr. Walter: Other than those questions, I had nothing special in my mind.

"The Chairman: Has any one here any suggestion to make regarding the different credit reports, any improvements or corrections which should be made in them?

[fol. 1073] "Mr. Lober: One thing that I would like to call your attention to is that the Midwest Association goes a great deal further with their reports than we do. I suppose you have all noticed that. They have at least two more months on them than we have. They go back, I think, to all accounts which are over thirty days old. Our reports don't give them until they are ninety days old. That is, they are ninety days old before we report them. I want to call your attention to that. They, of course, give a great deal more information than we do."

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"The Chairman: Are there any other matters which any members here want to bring up for discussion?

"Mr. Lober: Would it be proper for us to discuss here our experience with cash discounts, whether there is any marked difference under the present financial business conditions in the number of accounts which are being discounted, or whether there is any increase or decrease?

"The Chairman: I would prefer to wait until Mr. Cox is here to discuss that matter.

"On motion of Mr. Nash, seconded by Mr. Erdell, the meeting adjourned.

Meeting of the Sales Managers' Branch Held at 11.15 a. m., Home Office of the Association, Philadelphia, Pennsylvania, March 18, 1918

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[fol. 1074] "The Chairman: Under the head of unfinished business there was a matter that come up before the credit men regarding the moving of the offices to New York, and they voted that we move the offices to New York on April 1st, to the new quarters, 19 West 44th Street, at a rental of \$1,800.00 a year. The motion is in order that the sales managers' branch confirm the resolution as passed by the credit managers' branch.

"On motion of Mr. Erdell, seconded by Mr. Swett, the action taken by the credit men's meeting in regard to the moving of the offices to New York April 1st was affirmed."

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"Mr. Barbour: Is there any use of bring up the question of the valuation of the cement sacks as sold by the manufacturer and as compared with the price the manufacturer puts on them when he sells them to the dealer? There is a very wide difference. As far as we are concerned, we think that something ought to be done to equalize it."

"The Chairman: I don't imagine that is a matter with which the protective association has anything to do."

[fol. 1075] "Mr. Barbour: I don't know that we can have any decisive action on it, but I believe it is something that they must be thinking about now."

"The Chairman: If there is no further business, a motion to adjourn is in order."

"On motion, the meeting adjourned."

[fol. 1076]

Govt. Ex. No. 157

Special Meeting of the Cement Manufacturers' Protective Association

Meeting held at the home office of the Association, Room 502, Berkeley Building, New York City, at 11:30 A. M., Tuesday, May 14, 1918.

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"The Chairman: * * * There have been at different times complaints on the part of some of our members relative to the way information has been handled which is supposed to be secret, the use of the Association reports. During this last month or so we [fol. 1077] have had one or two more complaints. It is evident that in some way or other salesmen are securing the information from the reports and are using it in a way detrimental to other manufacturers' interests. I wonder whether it would be advisable to have a discussion on this subject to find out what the different members think would be a good, safe way in which this information could be handled with their salesmen."

"Mr. Coogan: Mr. Chairman, I remember that question was discussed some time ago, and it was decided then that this Association could not prescribe or dictate to the members in any way in which they must use the information which the Association gives them and it was felt that each company would have to figure out what they wanted to do with the information, but they should be held responsible for the proper use of that information. I don't think the Association can go beyond that. There is no way that you can lay down a certain hard and fast rule, and I think if there is a misuse of the information that it should be taken up with the company who has misused the information and see if we can correct that."

"The Chairman: Mr. Coogan, I appreciate the fact that the Association cannot prescribe any fixed way in which the members have

to handle this information, but my idea of bringing the matter up was to have a little talk on it, and possibly get some suggestions from the different members as to the way they think it advisable to handle it, not that we are going to prescribe any way in which we will handle it, but there may be some companies that have a certain way to handle it, and I thought a little discussion as to the way they are doing it might enable the others to clear up mistakes which they have been making.

"Mr. Coogan: Mr. Chairman, that matter was discussed at our February meeting. It was covered in the minutes of the meeting of February 18th. It seems to me it is covered in there about as fully as we could cover it in discussing it further.

"The Chairman: Well, my object of bringing the matter up again was this: That since that meeting there have been several complaints from manufacturers regarding the misuse of this information, and I appreciate the fact that the Association cannot dictate to its members how this information is to be handled, but I thought possibly some one here might have some suggestion to make which would enable us as a whole to have a better insight into the way to handle this information to get the best results.

"Mr. Twamley: There would be no impropriety, would there, in the Association calling to the attention of the members the company who has misused the information or is alleged to have done so?

"The Chairman: I believe in every instance where there has been any complaint like this it has been taken up with the company against whom the complaint has been made."

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[fol. 1079] "The Chairman: I would say this: It was a proposition where a salesman for another company went to a dealer with some Association information.

"Mr. Hilles: The original sheet, you mean?

"The Chairman: As I understood, it was the original sheet, yes.

"Mr. Coogan: Well, as long as you are relying on the human element, you are going to have a thing like that happen once in a while. You can't stop it. I don't think you are ever going to stop that in all cases.

"The Chairman: Personally, the way I feel about this matter is different. No doubt a lot of the other manufacturers do not feel the same way as I do, but I think it is almost an impossibility to use this information in such a way at all times that there will not be certain complaints coming in, but I think there is no reason why we should make such a secret out of these contract reports. Let the customer know that we are all acquainted with the contract which he is placing. I think they will be more careful than in placing contracts that are not right. That is only my personal opinion of it. As far as our company is concerned, if all the other companies felt the same way, we would have no objection to any other salesman of another company going right back to our customer and tell them where they got the information, because I feel in this way: That a

customer, when he places a contract and knows that everybody is [fol. 1080] going to see it and knows it is going to be investigated, is going to be more careful in placing a contract that is not right.

"Mr. Coogan: I don't believe 25 per cent. of the dealers today don't know of the existence and the purpose of this Association. I think in some cases they have the work of the Association distorted to a certain extent, but they know of the existence of it and they know the general principles, and so far as I am concerned, and I know several other companies feel the same way, we have never made any attempt to conceal. In fact, we have told them of the existence and purposes of the Association. I understand Mr. Gaines at one time had a letter written setting forth in plain language just what the work and the purposes of this Association were. Did you ever send that out? You never sent that out, did you?"

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"The Chairman: Going back to this other matter, I am willing to pass it on, but in one instance this month we got a letter from another company to the effect that if the misuse of the information continued they were going to resign from the Association, and although we have straightened it out, nevertheless we want to, every one of us, be very careful how we handle this information.

"Mr. Hilles: The life insurance companies had a lot of trouble of that kind about ten years ago. They adopted the method they called of twisters. A life insurance salesman went around, and if he got any information like that they would try to get him to switch [fol. 1081] the policy to his company by offering him special terms and so forth, and it was used and published in such a manner that the insurance salesman who used that method was soon in the black book of not only their own, but all companies, because it was a most despicable performance to go around to a man who had already placed an order, you might say, and quarrel with him and try to get him to change it. I think it is worth while to have every company address their sales force, stating that whenever information is given them that it is considered disreputable practice to go to the man who placed the order and try to get it away from the company to whom he had given the order or quarrel with him because he didn't give it to the twister."

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"Mr. Griffith: Mr. President, in line with taking up little credit matters in reference to information that we are asked to give as to whether the extra discount of larger than 5 per cent. should be given if settled within three days.

"The Chairman: Isn't that a matter of trade practice, Mr. Griffith?"

"Mr. Griffith: I think it might be just as well to talk it over here if it is agreeable to you gentlemen.

"The Chairman: Mr. Cox, what are your views on that matter?"

"Mr. Cox: Why, I think that is rather a trade practice than anything we deal with here.

[fol. 1082] "Mr. Griffith: Mr. President, in reference to the matter I just spoke of, that was brought to our attention in a printed form by one of the dealers of the Association, and I do feel that it is a matter for the trade relations to take up rather than for us.

"The Chairman: I think it would be advisable to take it up at a meeting of the Portland Cement Association, which will be next week. I would like to hear from Mr. Gaines if he has anything to say to the members present."

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"Mr. Griffith: I would suggest that a committee of three be appointed to draw up a suitable resolution of thanks to Mr. Bacon for his work in this Association in the past three years.

"Mr. Coogan: I second the motion.

"Mr. Bacon: Gentlemen, it is really with great regret that I do leave the Association, but as I said in my letter there are circumstances which cannot be overlooked which should make it necessary for me to hand in my resignation. Mr. Griffith and I fought pretty hard to get things in line. It gave him a great deal of anxiety, and I tried to relieve him as much as I could. His valuable assistance made the Association a success, and it has given me a great pleasure to see it go on. My treatment by the manufacturers has been most courteous, and I regret very much that I have to sever my connections with people who have been so very, very kind to me, and I thank you all.

"The Chairman: I know we all feel, Mr. Bacon, that we are sorry to lose you, and, as Mr. Griffith said, you started with the Association in its inception and you have been with us from the time we started, and practically all the work has been, up to recently, entirely in your hands, and everything has been handled most satisfactory to the Association. In reference to this committee that Mr. Griffith suggests, I will appoint Mr. Griffith as Chairman, Mr. Moyer and Mr. Coogan to draw up the resolution."

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[fol. 1083]

Govt. Ex. No. 158

Meeting of the Cement Manufacturers' Protective Association

Meeting held at the home office of the Association, Room 502, Berkeley Building, New York City, at 12 o'clock noon, Tuesday, June 18, 1918.

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"Mr. Holman: As a matter of information, I should like to ask the member who is in favor of Trade Acceptances, what he thinks the

advantages are from the standpoint of cement companies, in our business as standardized now, five cents a barrel discount for cash in ten days or thirty days net."

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"Mr. Dutton: Well, we might as well discuss that now as long as it has been brought up. There have been some of the member companies that think that on account of the few contracts being closed recently the daily reports are very small, and they think we should get out our monthly report, which heretofore has been published once a month, say, every other month; that in that way we would be doing something to conserve and help the paper industry and help the printers along, and, at the same time, have all the information, because it would mean then that we would have to keep our daily reports for two months intact until the big report came through; but that is not very much trouble these days. I notice that four or five contracts are about all that are coming through."

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[fol. 1084]

Govt. Ex. No. 159

Regular Meeting of the Cement Manufacturers' Protective Association

Meeting held at the Home Office of the Association, Room 502, Berkeley Building, New York City, at 11:30 A. M., Tuesday, July 16th, 1918.

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"Mr. Gaines: It must be obvious to the members that unspecific descriptions make it necessary for the auditors to use up a great deal of time in locating jobs before they can commence their investigations as to requirements and conditions, and I beg to respectfully urge all member companies to give us their co-operation and instruct their salesmen thoroughly in this important feature of our work.

"Mr. Holman: I am sure it will be very interesting to you to know the operations of the Association in a financial way. When our committee was first formed it was for the purpose of formulating a plan for contract investigation, and we estimated that the expense of the work, including the other work of the Association, would approximate two mills per barrel. We hoped that the work could be done for an amount less than that figure. Mr. Ackerman has prepared for me a statement based upon the actual expenses of the first six months of this year and an estimate of the expenses for the last half of the year based upon our present operation, which we feel will prevail for the rest of the year. This will give us a surplus at the end of the year of approximately \$15,000; that is to say, the amount

of dues as authorized would amount to approximately \$56,000, and the expenses at the anticipated rate (based upon present operation) will amount to approximately \$41,000, leaving a surplus of about \$15,000. That would make the cost of operation, as we are now set, between 1.4 mills and 1.5 mills, as against the two mills which were authorized."

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"Mr. Lober: Now, we have other matters that we are considering and expect to discuss still further, and hope to have something additional to report at a later meeting, but we do want to impress on the credit men the necessity for getting these reports here, and, as [fol. 1085] I said before, we expect to take up with the delinquents this matter as vigorously as we possibly can.

"The Chairman: Might I ask whether any of the companies that have been slow in getting these reports in by the sixth have given any reason whereby they cannot do it?

"Mr. Lober: Not to my knowledge.

"Mr. Gaines: It is different reasons, due to internal conditions, etc.

"The Chairman: They seem to be the same offenders?

"Mr. Gaines: Yes.

"Mr. Lober: There are some other details. Some of the companies do not use the blank; some of them do not give all the information which is asked for, and we expect to take these matters up with the individual companies.

"The Chairman: Under the head of unfinished business, I do not believe there was anything left over from the last meeting. Is there any one here who knows of any matter that should be brought up today that was discussed last month? As there is no response, we will go to the new business then. Mr. Scott, have you anything to say today?

"Mr. Scott: Nothing at all.

"Mr. Lober: I have a matter I would like to get an expression of opinion on. I have received from a number of the companies, letters in regard to the intercompany sack exchange basis—foreign sacks, I believe we could discuss that here as to the desirability of a change, [fol. 1086] and as I know that some of the members have been making that change, it seems to me we ought to have a uniform practice—all of us.

"The Chairman: I think Mr. Lober has brought up a matter which we are all very much interested in at present. I would like to hear from some one what his views are in the matter. Mr. Griffith, have you anything to say?

"Mr. Griffith: We are still holding to the old rate of five cents. I feel if we raised that price it would only imperil the matter.

"The Chairman: How do you feel about it, Mr. Twamley?

"Mr. Twamley: I understand the question is the amount to be paid for sack exchange between manufacturers.

"The Chairman: Yes.

"Mr. Twamley: I feel in view of the present cost of bags that

that amount is too small. I think a rate of ten cents would be an improvement.

"The Chairman: The big drawback in making a change in the interchange value of sacks, of course, is for the reason which Mr. Griffith brought out, but I doubt it would amount to as much as we possibly think it would. Mr. Griffith remarked that changing the price of the sacks for interchange between mills from five cents to ten cents would encourage customers in returning all their sacks to one manufacturer. How do you feel about that, Mr. Coogan?

"Mr. Coogan: We prefer the five cents. We agree with the re- [fol. 1087] marks that have been passed here that if we go to ten cents there will be a great deal of abuse. We do not see any reason why there should be a change.

"Mr. Medler: We are paying five cents now and I do not think we care to change that. We do not like to handle foreign sacks; they are expensive and troublesome. We cannot get enough labor to count our own sacks and we do not want to bother about turning over that labor to take care of the other sacks. We do not think we ought to change from the five-cent basis."

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[fol. 1088]

GOVT. EX. No. 160

Regular Meeting of the Cement Manufacturers' Protective Association

Meeting held at the home office of the Association, Room 502, Berkeley Building, New York City, at 11:30 A. M., Tuesday, September 17, 1918.

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The Chairman: New business. Has anyone here anything to say in reference to new business to come up today?

"Mr. Twamley: Mr. President, would there be any objection to all of the companies reporting their shipments on government work, which would include railroad work, or any orders coming from the Cement Committee, the same as other shipments? They have been in the habit of reporting by the Protective Association at the end of fifteen days or a month.

"The Chairman: What advantage would that be?

"Mr. Twamley: Nothing more than the information?

[fol. 1089] "Mr. Ward: The Cement Committee could furnish that.

"Mr. Twamley: I don't think so.

"The Chairman: The Cement Committee gives us from month to month the shipments on government contracts.

"Mr. Twamley: That is not the shipment; that is the allotment. I am speaking of the shipments.

"Mr. Holman: The shipments come along as a rule from month to month, based on the allotments. In the case of your company we have had called to our attention several orders where that has not

been the case, but in the main we find that their shipping instructions are placed at about the rate of that, they depending on the allotment. That is, it is impossible for the Cement Committee to show any report other than that based on the allotment.

"Mr. Twamley: I understand that, Mr. Holman, but I thought the Cement Protective Association could report that.

"Mr. Holman: Of course, it is safe to assume that when an allotment is placed with a company of so many barrels that they will in the future ship that amount of cement.

"Mr. Twamley: The only information I was looking for was whether there were any other companies shipping as little as our company in proportion to the cement placed with it.

"Mr. Lober: I think, speaking for our own company, we have so many kinds of separations and reports to make, that I would rather [fol. 1090] not do it; not that we have any reason for not doing it other than the demand upon the reduced office force is so great now.

"Mr. Twamley: The conditions in the very near future may be so much better that I would not care about it.

"Mr. Lober: May I make this suggestion: suppose we let it go to the next meeting and if the situation still seems to you to be acute you can bring it up then.

"Mr. Twamley: All right.

"The Chairman: How is that? I didn't get it.

"Mr. Lober: I suggested that we let it go to the next meeting.

"Mr. Brobston: I was going to make this suggestion to Mr. Cope, and that is this: we are making so many reports now, do you think it is worth while to make any more? Don't you think you could telephone to these one or two companies and get your information in that way?

"Mr. Cope: I am satisfied to let it rest now.

"The Chairman: It seems to me with this report which we have to prepare for the government at the end of each month, will give every manufacturer a line on just where his shipments are going, so that if it is necessary to bring it up later we can go to that report.

"Mr. Holman: If we can avoid doing it from the point of convenience, why then we ought to do it.

"Mr. Lober: I know we do not want to make any more reports. With what we have to make to the Federal Trade Commission and [fol. 1091] the Cement Association and all these other things, along with our reduced office force we have our own troubles to cope with." [fol. 1092] "Mr. Cover: Mr. Dutton, I want to bring up something. I think that this is a matter which we could discuss at this meeting and which it is proper to discuss at this meeting rather than at a meeting of the War Service Committee, although it does pertain to Government regulations. It seems to me it would be a good idea for the Protective Association to serve us right now in a rather new capacity. It will be probable that all of us before we get through will find that some dealer or some user of cement will violate the regulations or violate the pledge, and we will have to refuse to ship. Now, I think that whenever that happens that every company ought

to notify the Protective Association of that action and then I think the Protective Association ought to notify every other company that that particular party has been treated in that way so that we will all be on our guard. It would certainly be very bad if there would be a system developed there of looseness which would enable any dealer to violate their duty with one of us and immediately take up his wants with some other company. The other company might be entirely ignorant; the other company might want to help along the Government regulations just as much as we do, and yet they might [fol. 1093] ship to such a party. Now, can't we use the Association for that purpose?

"The Chairman: Mr. Cover, if Mr. Cox were here, I could get an immediate answer on that. I do not know whether that would come under the scope of the Association or not. It seems to me that it is a protective matter and one which the Association could be of service on, but I think it might be well before we go ahead with the proposition to get Mr. Cox's opinion on it, so that it can be brought up at the next meeting. Any discussion on it?

"Mr. Brobston: Mr. President, don't you feel that this is absolutely a matter which will be of assistance to the government and therefore that there can not be any legal question about our right to do it at all, and by postponing it for a month we might lose the effect of it to a very large extent, because, as Mr. Cover has pointed out, a person who is going to violate the pledge may do it right away, and the other members should be notified promptly that this man has not lived up to the pledge, so that they might be on their guard. Certainly that is absolutely legal in every sense."

[fol. 1094] "The Chairman: I should think it was. Personally, I would be in favor of it. Has anyone else anything to say?

"Mr. Griffith: The reports from the different dealers would not come in until about the fifth or tenth of next month. Therefore, I think it would be in line to take it up with Mr. Cox and discuss it at the next meeting.

"The Chairman: There is nothing we could do prior to getting those reports, and I think in the meantime we can talk it over with Mr. Cox. I agree with Mr. Brobston that it is something we are doing to assist the Government, and therefore would be in the province of the Association, but as long as it can wait over until next month I do not see any necessity for going ahead with it today.

"Mr. Holman: I do not think it is necessary to defer any action you might feel justified in taking until the next meeting. Our committee has in mind, just as soon as these governmental regulations become operative and we find out what the procedure is going to be, we will then determine whether or not the Association, through its present organization, can be of service to the industry in carrying out of the orders of the Government. We have in mind several things which the Association can do along the lines of Mr. Cover's suggestion, but we think at the present time we cannot make any plans because the situation is not entirely clear. Our thought is that just as soon as it is cleared up, and we know what the procedure [fol. 1095] is going to be, then we can endeavor to fit in the activities

of the Association, and when the time comes it is my purpose as Chairman of this committee to take up with Mr. Cox the things we wish to do that we think will be of service to the industry and get Mr. Cox's approval. That is to say, we will tell him what we would like to do and just ask him to tell us if there is anything within our program then not within the function of the Association. Personally, I think anything this Association can do to help individual companies in helping out the orders of the Government would be within the province of the Association. But we would like to suggest that no definite plans of action be made now because of what I am going to tell you later. We are not all quite clear as to just what the method of procedure is going to be, and the thought of the Committee is that just as soon as we clarify the situation we will then see in what way the work of the Protective Association can best be adapted to it and assist the individual companies in carrying out the orders of the Government.

"Mr. Brobston: I was just going to ask Mr. Holman one question: Whether he thought it would facilitate the work as outlined by him if we should today pass a resolution authorizing Mr. Gaines to at once start to carry out any suggestions that were made to him by the War Service Committee.

"Mr. Holman: It was not my thought as Chairman of this Committee, and I do not think it was the thought of the other members [fol. 1096] of the Committee, to do it as the War Service Committee; that is, the Association itself would determine the things it would do based upon its knowledge of the conditions in the industry, and while we appreciate your suggested motion, I believe the functions of the Committee as now constituted will give us that status.

"Mr. Cover: I was going to ask practically the same question as Mr. Brobston.

"The Chairman: This proposition, as I understand it, is a case of the Association being an assistance to the individual members in following out rules and regulations set down by the War Industries Board, rather than an assistance to the War Industries Board, because we have our own situation to deal with.

"Mr. Holman: Oh, yes. This Association would not in any way offer its services directly to the War Industries Board or any other department of the government. This Association is composed of cement manufacturers, and anything that we, as an Association, can do to assist these cement manufacturers who are its members in carrying out the orders of the Government I am sure will be approved by Mr. Cox, and any part of the program, from the factory point of view, that we want to put into effect that Mr. Cox thinks is not within the province of the Association, of course we will have to be guided by him; but in a general way I think Mr. Cox will permit us to do everything as an Association we will want to do for our interest.

"The Chairman: Mr. Holman, you will, therefore, some time before the next meeting, take this matter up with Mr. Cox so that it can be brought up then; in the meantime we will allow the matter to rest.

"Mr. Holman: If it is satisfactory to the members the Committee will keep in touch with the situation, and just as soon as they feel the time is ripe to develop the plan as an assistance to the industry we will put it into effect."

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[fol. 1097]

Govt. Ex. No. 161

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the home office of the Association, Room 502, Berkeley Building, New York City, at 11:30 A. M., Tuesday, October 15, 1918.

[fol. 1098] "Mr. Lober: Those special reports, those special notices of accounts placed in attorney's hands, as I understand it, are sent out immediately on receipt of notice from the company that they have placed that account with an attorney. There is a special circular sent out to all of the members at once. They do not wait for the issue of the regular monthly report."

* * * * *

"The Chairman: Is there anything else under unfinished business; if not, we are upon new business.

"Mr. Coogan: We were talking to Mr. Gaines this morning about a matter in which a great many of the members are interested, and that is the new freight rate book. I understand that New England has been issued. New York, Pennsylvania, New Jersey, Delaware, the District of Columbia, and I think, Maryland, are now in the hands of the printers and should be distributed within a short time, within probably a week or ten days at the very most. As you know, the books have been checked and rechecked, and, of course, it is taking a considerable length of time to do that work, but I think as they come out they will be very useful and satisfactory."

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[fol. 1099] "Mr. Coogan: There is a matter while it has no place in this situation, but inasmuch as all the people present are members of the Portland Cement Association, and participate in it, it seems to me, if there are no objections, that it might be a good time to discuss how the different members feel about the work being carried on by the Portland Cement Association; whether it should be curtailed or what should be done with it. We would like to draw out the thought of some of the members. Of course, we have no voice in this thing at all, but personally I would like to have it to carry

to my superior, so that I may let him know what the feeling is and I believe that the Executive Committee would be glad to know the feeling of the different members; as to how far we think this promotion work ought to go.

"Mr. Lober: Do we want to go into that and have a long discussion in the minutes?"

"The Chairman: It would be the best way to circulate the information around among the members, no doubt, if we had it in the minutes; how do you gentlemen feel about it?"

"Mr. Coogan: Why not put it to a vote, as to whether it can be taken up in two or three ways?"

"Mr. Cox: The only thing I insist upon is if you do talk about it it should go in the minutes because one of the features of our minutes is that they always have everything set down in black and white, and I would not like to depart from that rule."

[fol. 1100] "Mr. Lober: That is not what I mean. Of course, if we brought the matter up at this meeting it is going in the minutes, but whether the Association should go into that particular feature of its activities entirely separate and apart from anything connected with this Association.

"Mr. Cox: That is a matter of your convenience rather than anything else.

[fol. 1101] "The Chairman: Well, I do not think a little discussion here would be out of order, then.

"Mr. Coogan: Why not put it in a plain vote; that is, are you in favor of continuing the special dues and special promotion work as carried on at present, or are you in favor of the curtailment of that work along the line which the Executive Committee seems to think most advisable? A man could vote for either one or the other which would give his general principles. That does not necessarily mean that the Executive Committee will decide to curtail the dues; they might keep up the dues but curtail the work if they decided that way.

"Mr. Hilles: You might put that curtailment in there in a way that would not make it seem as though we were going to abandon the work, because there is no intention to abandon any of the work, but we felt that it would, or personally I feel that it is a pretty hard time to promote any new work.

"Mr. Holman: Mr. President, along the lines of what Mr. Coogan has said, it seems to me we are facing a situation in which we have been asked by the Government to do certain things as an aid to the war program. A large part of our special dues is devoted to promotion and inspection. Only such roads as are absolutely necessary and which contribute to the prosecution of the war will be allowed to be built from now on. Now, it seems to me very unwise, very unpatriotic for us to utilize men and money in promoting something [fol. 1102] that is not desired by the Government, and is considered by them inimical to the prosecution of the war. My idea is, both from the standpoint of patriotism and good business, that we should confine our promotion now to those things that the Government

wants built and permits building, and not waste our money or put ourselves in an unpatriotic position by doing things that the Government desires us not to do, so that I think that our special dues until the war is over should be confined to promoting things that are a part of the war program."

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[fol. 1103] "Mr. Holman: Before we adjourn, I have a matter I would like to mention. It is more or less personal, but I wanted to make a few remarks about a matter that I have been thinking about a great deal lately. A year ago in May I made some suggestions as to the advisability of making some changes in the work which the Association was doing, particularly with regard to inaugurating the contract investigating department that Mr. Gaines is in charge of. Mr. Lober, then president, asked me to become chairman of a committee to formulate a plan for a change in the activities of the Association. As a committee we did that, employed Mr. Gaines, and the committee was continued at the suggestion of the members for the purpose of what might be termed chaperoning Mr. Gaines in carrying on his work. As chairman of that committee Mr. Gaines has, of course, from time to time conferred with me, asking advice in regard to matters which came up almost daily. The important matters have always been referred to the committee, and our action has been the result of the consensus of the committee as to what to do, in most cases also referred to the members at our various meetings.

"Recently I have felt that there was a feeling on the part of some gentlemen in the Association that I was exercising what might be called a dominating influence over the affairs of the Association, and to a certain extent running things in accordance with my own ideas, influencing Mr. Gaines in his work in accordance with my [fol. 1104] personal ideas you all know I have been very much interested in the work which this Association has been doing. I do not think that there is anything that has ever been done in the Cement Industry since I have been connected with it that has been productive of as much real good as this work which we have done since Mr. Gaines came with us, in connection with the other activities of the Association. I have been very much interested in the work because of the good that I thought it did to the industry, and my whole thought in directing the work as chairman of this committee has been to secure and promote conditions in the industry which would be beneficial to all of us, and as far as I was concerned personally, and my own company was concerned, as being a part of the whole we would, of course, share in the improved conditions as a part of the industry and not as one particular company.

"There have been various suggestions made from time to time that certain things be done by the Association. All of those suggestions have been discussed by the committee, and nothing has been done except as the result of the consensus of their feeling. I have probably had some rather positive ideas about some things, and

I have personally disapproved of doing a number of things that some Association members from time to time have suggested that we do, but in all cases these have been matters that Mr. Cox has advised us were not within the province of the Association, and in accordance with the Constitution and By-Laws, and could not be done. There [fol. 1105] has been some criticism directed at Mr. Gaines because he was more mindful of instructions that he received from me and suggestions that he received from me than those that he received from other members. Now, it is manifestly impossible for any man to be chairman of this committee and not come in very close contact with Mr. Gaines, but I believe that you all feel that my contact with Mr. Gaines that I have never asked him to do anything that has not been in my opinion for the best interests of the Association and the industry, of which my own company is only a part. I want to bring this up today because it is my opinion that the success of an Association of this kind necessitates harmonious feeling among the members. I have continued as chairman of this committee, and will be perfectly willing to continue if the members wish me to do so. On the other hand, if they feel that somebody else can do the work better, I will be very glad to withdraw and give my hearty support to anybody else who may be named as chairman of the Committee. It is manifestly impossible to have a meeting of the committee every day or two, and Mr. Gaines has felt, and I have encouraged him to feel, that the purpose of the committee of which I was chairman was for him to confer with and advise with in regard to things that came up from time to time.

"The statement has been made that certain things ought to be done, and if the Atlas Company did not approve they could withdraw, and that they were not necessary to the existence of [fol. 1106] the Association. Now that, of course, I know perfectly well. We are, however, very much interested in this work, and I think that if all the companies who are members would become more interested in the Association work, taking greater advantage of both the credit information and the contract information that is given, that they would secure benefits that they are not now securing, and have perhaps a different idea of the way things are being done. But I want to say that I thought at this time it was necessary for me to speak about these things, not with any thought of antagonism or criticism, but I think we ought to be a harmonious whole. Mr. Gaines' work, his best efforts, cannot be had if there is a feeling on the part of various members that he is not working for the interests of all the members of the Association, and that he is being in any way influenced or guided by the interests of any one company. I think if any of you have any matters on your minds that this is the time to talk about them right here now and on the table. As I said before, in exercising the office of chairman of this committee I have been guided at all times by Mr. Cox's recommendations as to things that we could do and the things that we could not do, and, of course, that will have to be the situation at all times. But I want to say now that if there is any feeling on the part of the Association that they would like to have a change in the chairmanship of this committee [fol. 1107], as far as I am concerned, I will be entirely willing to withdraw and co-operate heartily with anyone else. * * *

"Mr. Twamley: Mr. President, I want to say that this is the first intimation that I have had that there was anything but harmony in this Association. Representing as I do one of the smaller companies, I would be perhaps one of the first to feel it if there was anything like the dominating influence of any one company, or if a larger company were trying to dominate this Association to the disadvantage of the smaller companies. I have never experienced anything of that kind, and the work of the Association, as far as I have personally observed it, has been very efficient under the management of Mr. Gaines and Mr. Holman as chairman of the committee, and I should like to move a vote of thanks to the committee and of confidence in the committee as at present constituted. I make such a motion.

"Mr. Ackerman: I second the motion.

"Mr. Holman: It is very kind of Mr. Twamley to make those remarks, but in all seriousness I did not bring this question up for the purpose of getting a vote of thanks. I think that it is a very serious thing, and I think that we can be serious among ourselves without being critical of each other or antagonistic. While I am very grateful to Mr. Twamley for his kind words, I would be very much more satisfied if any of you gentlemen who have any thoughts along the lines that I have expressed, that we discuss them instead of acting on Mr. Twamley's motion, and I know that Mr. Twamley will understand the thought that I have in mind in objecting to the motion.

"Mr. Twamley: I withdraw the motion.

"The Chairman: As president of the Association I would like to make these remarks to Mr. Holman. I know for a fact that you have given the Association as chairman of the committee and Mr. Gaines a lot of assistance, and I feel from the bottom of my heart that it has absolutely been unselfish. I do not know of a single instance where there has been anything done by yourself which could be considered as being from a selfish standpoint. I believe Mr. Holman is right. If there is anything to say, come up now and say it; if not, let us forget it."

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[fol. 1108]

Govt. Ex. No. 162

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the home office of the Association, Room 502, Berkeley Building, New York City, at 11.30 A. M., Tuesday, November 19, 1918.

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"Mr. Lober: The Credit Committee this morning discussed the difficulties that some of the smaller member companies may be

having in using the Credit information which is now being sent out on the monthly list. It occurred to us that, due to the large number of these lists which are now in existence, that it was a very difficult matter for the companies which did not have a good size office staff to refer to these lists and get what was on them.

"We recommend in that connection that the Association prepare certain forms; one form to be used by member companies in applying to the Association Office for credit information. The form would be in such shape that possibly all the member companies [fol. 1109] would have to do would be to fill in the name and address of the customer or prospective customer that they desire the information on, sign it and mail it to the office. We would also have a form which would be used by the office here furnishing that information."

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"The Chairman: As it stands now, a member company if they want to get information as to the past experience of the different cement companies regarding certain accounts have got to go back over their monthly credit sheets.

"Mr. Lober: Over their own lists."

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"Mr. Gaines: We then give that company all the information on that card, showing the history of that Purchaser with the different companies.

"Mr. Griffith: Then would that be followed by letter with any further information that you might receive from the other companies?"

"Mr. Gaines: Any information we might receive from another company under the system I should think would be put on that card."

* * * * *

"Mr. Lober: I have the form right here, and I understand that they are not at present going into all that detail.

"Mr. Scott: Do you know whether the results they have obtained from that collection of data there has justified the cost?"

[fol. 1110] "Mr. Lober: I think Mr. Medler can probably answer that better than I can. His company is a subscriber to the Midwest Bureau.

"Mr. Medler: It seems to me that the Midwest has gone just a little beyond what is necessary for an organization to do. There is a definite function that they can perform and they have gone almost into the commercial agency reporting system, an expensive system. To do it right you have to have reporters, and there is no use doing it half way.

"We can reach up to a certain point where we will get valuable information through the exchange of experiences with the members,

and when you get beyond that then you are getting into the commercial reporting system, which is a very expensive proposition, to do it properly, and that is what we are trying to eliminate, the enormous expense attached to that and get the full benefit of our own membership in this organization.

"That is the result of our experience."

"Mr. Holman: With regard to the question of Mr. Scott as to the furnishing of credit information, it seems to me that it could be divided into two general classes, one of which I would term credit protective and the other credit informative.

"The Chairman: What is that?"

[fol. 1111] "Mr. Holman: The collection of information with regard to credits I should think should be divided into two general classes; first, credit protective, and second, credit informative. That is to say, the first would be what I assume to be the function of this Association to protect the members against the abuse of credit, but not to go so far as to furnish information upon which to base the extension of credit.

"The Chairman: I understand that, but what I understand of the Western reports they are cutting that down.

"Mr. Holman: The Western Association, I think, have rather curtailed that function in recent months, but their idea for a long time was not only to furnish credit information with regard to past bad accounts, which is the credit protective feature, but to go a step further and to assume in a way the function of Dun & Bradstreet, that is to furnish information upon which to base credit.

"That never seemed to me to be a function of either that Association or this one. Our objects are protective rather than informative. If we entered into the plan that Mr. Scott has referred to, it will require a very heavy addition to our forces, and it would involve the sending of reporters to the customers, to which there has been a considerable objection in the West."

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"The Chairman: Mr. Gaines, will you let us hear from you?"

[fol. 1112] "Mr. Gaines: I secured that information and sent it back to the members in the form of a statement showing the method each company used in counting sacks, whether before cleaned or after cleaned. That report has been made to the members, and we can incorporate it here as a part of the records of this meeting."

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"Mr. Gaines: Mr. President, about the only thing is a matter that several of the members of the Association from time to time have brought to my attention, viz: That there were possibly some subjects connected with the conduct of their business that might be profitably discussed in the meetings; that they are getting some very valuable information from the Association, and it might be profitable to discuss at some of the meetings of the Association the facts as brought out by the statistics and information produced.

"It has not been within the scope of the Association heretofore to do those things. I do not think it is the idea of anybody to make a forum of the meetings, but possibly through bringing up subjects that you are interested in we could send out questionnaires and gather together more valuable information along other lines than we have been doing up to the present time.

"Some time ago I took the matter up with Mr. Cox and had a talk with him about it, and I think perhaps Mr. Cox would en- [fol. 1113] lighten us as to the things along that line that might be added that would make the Association more valuable.

"The Chairman: Mr. Cox, will you let us hear from you, please?

"Mr. Cox: Gentlemen, I want to apologize, first, for being late this morning, which has some bearing on the subject which Mr. Gaines has just brought out. The reason I was late was that I received sudden orders to get some important matters ready, and the effect of that has been, I confess, that I have almost completely forgotten what Mr. Gaines and I talked about.

"In general I think we have to bear in mind two things, one is the substance of what we do here, and the other is mechanism. We have been so anxious about the substance that we prepared a very limited mechanism in the form of our constitution and by-laws, and one of the theories on which that has been prepared is that nothing could be done outside of those by-laws which was not first submitted to each member individually by a letter ballot for approval.

"Now, if you are going into a somewhat larger and perfectly proper field, I think that the way to go about it is to consider, first, roughly, what we want to accomplish, and then to bring our machinery, by which I mean our constitution and the by-laws to a point where it will secure the proper operation of the legitimate treatment of those subjects; and my thought is that it will do no harm if we here and now simply consider generally what sort of subject the Association [fol. 1114] might profitably handle, leaving it to be determined later the extent to which those subjects would be handled and how they would be handled.

"The Chairman: Gentlemen, Mr. Gaines has been going over this matter with me on several occasions. Some of the other members, too, have been bringing up several matters which have been considered heretofore as outside of the scope of the Association, and if I understand it correctly, Mr. Cox, according to our constitution and by-laws we are limited from discussing some of these other matters which may be of importance so far as the industry as a whole is concerned?

"Mr. Cox: Yes.

"The Chairman: Well, now, in order to discuss those matters was it your idea that we would have to make a change in our constitution and the by-laws?

"Mr. Cox: I think that would be the proper way.

"The Chairman: And in order to make that change we will have to specify particularly just what we want to discuss, not the exact subjects, but in a general nature the line of discussion of matters

which you want to bring up here, and which are not covered at the present time by our constitution and the by-laws?

"Mr. Cox: Yes.

"The Chairman: For instance, the matter of trade practices or policies.

"Mr. Cox: Yes, that is right.

[fol. 1115] "The Chairman: And that would have to be submitted to all the companies and voted upon by letter ballot?

"Mr. Cox: Yes.

"The Chairman: Making it a part of our constitution and by-laws?

"Mr. Cox: Yes.

"The Chairman: Gentlemen, you all understand, I guess, what we have been referring to. I would like to hear some discussion on it, if anyone cares to say anything or can give us any light or their ideas in this matter.

"What have you to say about it, Mr. Coogan?

"Mr. Coogan: It would be my idea to refer this matter to Mr. Holman's committee to bring in and report at a later date. I think we could get further with it in a shorter space of time by that way than any other.

"The Chairman: There is no doubt you are correct there, Mr. Coogan, but I thought possibly before its being turned over to the committee that some of the men here might like to say something in reference to it.

"Mr. Moyer is pretty well acquainted with these matters.

"Mr. Erdell: Why not let the committee, or these gentlemen, report what they had in mind?

"The Chairman: I think we could do that.

"Mr. Moyer: I think this is a matter which we should give very careful thought. I would not care to pass an opinion offhand as to whether the Association should enlarge its scope or not, and I think [fol. 1116] it could be handled better and more expeditiously by taking up with the Contract Committee, which Mr. Holman is the head of.

"The Chairman: Mr. Holman, will you arrange to call a meeting of the Committee at some time before the next monthly meeting, and go over this matter with the Committee, so that the Association will know about what we want to take up, and we will let it rest until that time?

"Mr. Holman: Mr. President, in order to get a general idea as to the feeling of the members, wouldn't it be well for Mr. Gaines to address a letter to the members, incorporating Mr. Cox's remarks, which would tell us in a general way what his thought is on the matter, and then ask each Company to make suggestions by letter as to the nature of any subject or any discussion which in their opinion would promote the general welfare?

"Then, after we get those expressions from the various members, we can decide how we will proceed further. It seems to me that would be the more orderly way to bring it about, to first, in that way, as-

certain just upon what basis, as Mr. Cox has told us, the various members might have it in their minds.

"The Chairman: I think that is a good way. In that way we can get all the member Companies' different thoughts about the matters which they would like to have the Association handle, and then the Committee with those in front of them can get busy.

[fol 1117] "Mr. Holman: I think the thing to do then would be to submit all the suggestions to Mr. Cox for his opinion as to whether or not they were proper subjects. In that way we can eliminate without further discussion the things which Mr. Cox thinks would not come properly before this Association.

"The Chairman: In other words, the Committee will go over those suggestions and weed out the ones which Mr. Cox deems not advisable or not feasible to undertake, and then the rest will be submitted by the Committee to the Association.

"Mr. Holman: I think in that way we can get the feeling of the members as to what they think is advisable; then, based on those suggestions, we could decide how best we could proceed.

"The Chairman: Mr. Gaines, you heard what Mr. Holman had to say. It is his idea that you address a letter to all the member Companies requesting them to give you any subject or matters which they would like to have brought under the scope of this Association, and then, with all of that data collected together, the Committee can take the different matters up with Mr. Cox and find out just those which the Association could handle.

"Mr. Gaines: Yes, sir; I will attend to that.

"The Chairman: You will then address a letter along those lines?

"Mr. Gaines: I will take care of that.

"The Chairman: Under the head of new business, anything new to bring up today?

[fol. 1118] "Mr. Coogan: I have one thing. At our last meeting we passed a resolution for the printed report of contracts terminated to be shown as of January 1st, 1919.

"In talking to some of the members they seem to think it is important that we have a printed report of contracts as of January 1st, 1919, but that the report should be a corrected report, and inasmuch as a great many contracts expire on December 31st, the member Companies should make sure to have all of their cancellations in the hands of this office, so that the printed report as of January 1st, while it may be possibly delayed for a few days, will be absolutely correct when it is sent out, and it will be a very small report."

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"Mr. Griffith: I should like to have the report as of the first of the year showing what has been cancelled, and that would give us a very good idea of what still might follow over the following year."

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[fol. 1119] "Mr. Scott: Might it not be well for the vice-president to send a letter along the lines of Mr. Coogan's suggestion, calling our

attention to the necessity of this data being at hand and cleaned up to show the report as of January 1st. To show a report of January 1st that may contain a lot of contracts whose expiration is dated January 1st would not be of any value at all. It is my view that such report should contain actual commitments as near the first of the year as possible. That would be valuable to all of us. It is a question of making the effort."

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"Mr. Lober: I have been requested to bring up a matter. Mr. Swett was to bring up the question of obtaining from member Companies data as to their shipments on direct carload business to the job and to dealers through yards.

"I understand he had a phone conversation with Mr. Gaines and had expected to bring it up himself but could not be here. I understand, further, that his idea was that from that data could be worked up something on the cost to dealers of handling direct carload business. I do not know just exactly how he expected to figure this. Possibly Mr. Gaines has some ideas on the subject more definite than I have and I am bringing it up as requested for discussion and any recommendation or action you want to take.

[fol. 1120] "I think he had in mind the idea that dealers in apportioning their overhead expenses were putting more of the overhead on the direct carload business which they never touched than they should; that they should put more of that on their yard business, and that the real cost of handling and taking care of what you might call wholesale business was less than they considered.

"I do not know whether Mr. Gaines can add something. I think possibly he can, as he had a conversation.

"Mr. Gaines: I can only say this, that Mr. Swett said that his idea was that he would like to have a questionnaire sent out to the members to find out what percentage of their shipments was warehouse business and what percentage was shipped on contracts, with the idea of making some cost figures as to what it cost the handlers of cement to handle carload business.

"Mr. Moyer: I think he went further than that, as I recollect it. I had some conversation on the subject, and that is, if you only report the shipment on open business through dealers' yards and then the business that you ship under contract, you do not accomplish what is attempted, because a great many of the shipments under contract go through dealers and are handled through warehouses.

"What he really wants to get at is the shipments under open business, not under contract, which go through dealers' yards, the shipments on open business which go direct to the contractor and not [fol. 1121] handled by the dealer, and the shipments under contract which go through the dealer's yard and the shipments under contract which go direct to the consumer and not handled by the dealer. That will accomplish the object which we want to achieve.

"Mr. Griffith: Is that three questionnaires, then?

"Mr. Moyer: Two.

"Mr. Griffith: No, dealers direct, dealers open and consumers.

"Mr. Moyer: Divided into open contracts.

"Mr. Griffith: Three.

"Mr. Gaines: That is right.

"Mr. Erdell: I move that the Vice-President send out that questionnaire some time in December and covering the year 1918.

"Mr. Ward: That will entail a great deal of work.

"Mr. Moyer: It is worth it, though.

"Mr. Lober: I think it is a very big job.

"The Chairman: This matter here is practically one of those things we were discussing which we want to possibly refer to, when we said that we would have this letter sent out by Mr. Gaines, and Mr. Cox thinks that this should be handled by Mr. Holman's committee at the proper time, that right here to day we cannot do anything on it because it does not come under the scope of the Association as our present by-laws and the constitution stand.

"Mr. Moyer: It is the reporting of shipment. It does not go any further than that.

[fol. 1122] "The Chairman: Will you reply to that, please, Mr. Cox?

"Mr. Cox: My thought was that this really represents an enlargement of the activities of the Association. The thing does not seem to me objectionable at all, but it really is a subject beyond what we have been doing and what I thought is properly one of those subjects that ought to be dealt with by being referred to the committee that is going to deal with the general manner of enlarging the Association's work. I do not mean there is anything harmful in it or anything of that kind.

"Mr. Moyer: It really should come under the by-laws as at present?

"Mr. Cox: Possibly it should.

"Mr. Holman: Let that come in as a suggestion."

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[fol. 1123]

Govt. Ex. No. 163

Annual Meeting of the Cement Manufacturers' Protective Association

Meeting held at the home office of the Association, Room 502, Berkeley Building, New York City, at 11:30 A. M., Thursday, January 23, 1919.

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[fol. 1124] "Mr. Lober: Of course, the idea of a good deal of this credit information was that it would be a guide and it would give the credit men of the member companies a knowledge of where to go for the more detailed information. That is, just on Mr. Ward's

point, if I have placed an account in an attorney's hands, if it was an account he was interested in, or his company was interested in, it would show where he should go to make inquiries. Your Mr. Naylor would call me on the phone if he were in a hurry and wanted to know just what the details of that were. I have had an instance of that. We placed an account in the attorney's hands, an account of a concern which was in good credit, discounted their bills. It was due to their having misued contract cement which we found, discovered, as a very flagrant case. We charge them with the difference between the market price and the contract price which they refused to pay, and eventually that account was placed in the hands of an attorney for collection, or it still is. Another company was interested in that account, and when they noticed we had placed it in the attorney's hands, within a day or so afterwards, I got an inquiry from the credit man of that other company asking for the particulars. He said they were interested and that their record [fol. 1125] had been to them very satisfactory, discounted bills, and so on, and he wanted to know if there were any special circumstances, which there were, in no way affecting their ability to pay for any cement which they bought, simply reflected on their business conduct."

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"Mr. Lober: The resolution is that there should be added to the reports of accounts placed in attorney's hands as published in the monthly list the amount of such accounts, and that the notice of this action, if the resolution is carried, be sent to the member companies, and their attention called particularly to it, and also that their attention be called to the necessity for reporting promptly accounts which have been placed in attorney's hands and which have been paid or settled.

"Mr. Hilles: I second the motion.

"The Chairman: You have all heard this motion.

"(The motion was unanimously carried.)

"The Chairman: Have you anything else?

"Mr. Lober: Yes. At the meeting of the big Association in December, a number of the credit men, mostly the members of the Mid-West Association, met together with a member of our own Credit Committee, informally, and he thought possibly we might be able to exchange some ideas which would be helpful to each other. One of the opinions that was brought out at that time was the suggestion [fol. 1126] that it would help, in this large sheet which covers the summary of the totals on the monthly credit report for a period of thirteen months, might have added to it the percentages of the total amount on the sheets which appears in each of the various columns. Now, the Mid-West apparently from its last report has adopted that. For instance, they show here, 'December 31, 1918,' the accounts which are 29 days past due; in other words, which are over 30 days

old, and under 60 days, they show here \$445,000, which is 32.4% of the total. Then at the bottom of the sheet, December 31, 1917, which is a comparison of exactly one year back, it showed in that column 41½%. In other words, taking the whole thing of the totals, on the sheets, running across, you can see by a comparison of the totals on the sheets, this year there is a bigger proportion of unpaid accounts running quite a little overdue than there was a year ago. The proportion, between 30 and 60 days, a year ago, was much larger relatively, 6% more, than it is this year, and that difference is taken up in the columns which are further along on the sheet. The proportion in the accounts between 60 and 90 days, there is a difference this year which shows there is 35%; last year it was only 26. We thought that it might be desirable from the point of our credit list to have those percentages put in our report.

"The Chairman: Mr. Lober, is that information of any special help to a credit man?"

[fol. 1127] "Mr. Lober: In this way, I should say it would be. The committee thought so at the time. That will show you the general tendency, whether your competitors on an average are collecting their accounts more promptly than they were a year ago. You can tell this, you can figure your own and see whether you are doing as well as the others.

"The Chairman: This report does not show the condition of each individual company.

"Mr. Lober: No; it is a general report. That report there shows that the collections of the accounts which become overdue, past due, are slower than they were a year ago in the Mid-West."

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"Mr. Lober: I know you do; that is all you can do.

"There is another matter I have here that the Credit Committee wishes to submit. It is a form of questionnaire to be sent to the members to stir up a little interest in this credit matter, and we thought that it would bring out some opinions as to how our various members who are getting credit information, what they did with it, and the answers could be of advantage in an educational way in giving some of our members hints as to the improvements that they could make in their own credits, and so forth. If it is desired, the questionnaire will be sent out; it covers eight questions, as follows:

[fol. 1128] "Suggested Questionnaire to go to Credit Managers.

"1. To what Commercial Agencies do you subscribe for credit information?

"2. What other sources do you use for securing credit information?

"3. Do you keep a separate credit file?

"4. How often is it revised?

"5. Do you keep a card system on credits?"

"6. Do you keep your sales department advised of the condition of credits?"

"7. Have you any suggestions to offer that would improve our present credit system?"

"And then, afterwards, at one of the meetings, was added number 8, as follows:

"8. What do you consider a bad debt? When do you charge it off?"

"The Chairman: Mr. Lober, was not that last question the subject of a good deal of discussion at the meeting they had over at the Biltmore?"

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"Mr. Lober: If there is no discussion, I will put it in the form of a motion, that the office be instructed and authorized to issue this questionnaire to the credit men of the member companies, and to secure replies as promptly as possible and compile them if it is possible, by the next meeting.

"The Chairman: And the answers will then be placed together and sent to the different credit managers.

[fol. 1129] "Mr. Lober: I think it would be probably as well to issue it in writing to the various credit men before the next meeting so that they could consider it before they come here, and if there are any questions they want to discuss, they can discuss it.

"The motion was seconded by Mr. Philips and was unanimously carried.

"Mr. Lober: There is one other thing. I think that the amount of time I have already taken makes it undesirable to go into any very great discussion of it today. We have considered whether we could bring up more credit matters and discuss them more thoroughly at the meeting than we have been doing. There are three subjects here that we thought might be brought up for discussion at the credit managers' meeting:

"(a) Discussion upon the analysis of recapitulation of monthly credit reports.

"(b) Discussion of the relations between the credit and the sales departments.

"(c) Discussion of a suggestion that all companies submit forms, and so forth, that are used in getting credit reports with the idea of choosing those which were of a sound and standardizing form."

[fol. 1130]

"January 23, 1919.

"W. G. Dutton, President Cement Manufacturers' Protective Ass'n, New York City:

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"We also recommend to the Association the advisability of revising the monthly printed contract report to show price changes on old contracts by reason of the changes in sack values, freight rates, etc. This can be done when sending to the Association your monthly contract report, and advising the Association of revised prices on old contracts.

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"Respectfully submitted, V. (so in orig.) M. Coogan, W. E. Erdell, Albert Moyer, H. M. Scott, B. L. Swett, W. A. Holman, Chairman."

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"Mr. Gaines: It has been suggested by several members, after we have tried out this Tuesday proposition, of Tuesday as the regular meeting date, that the regular meeting date be changed to Thursday, that is, the third Thursday in each month, rather than the third Tuesday in each month. This affects several of the members. I have talked to most of them and they say that Thursday is acceptable to them; in fact, I have had only one, I think, that suggested he might be busy on Thursday, but said he could be here. There are some of our members cannot be here on Tuesday and as I think you ought to have everybody here, it seems advisable to change that date.

"The Chairman: Will someone make a motion, please, recommending the third Thursday in each month as the meeting date?"

"The motion was made by Mr. Moyer, seconded by Mr. Holman, that the meeting date be changed to the third Thursday in each month, and was unanimously carried.

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[fol. 1131] "Mr. Gaines: It has been suggested by one of the members of this Association that we have a little lost motion in closing out contracts that have expired on the records of the Association, and the suggestion has been made that when contracts expire the contract be cancelled with the Association in the regular manner by furnishing us with the yellow slips, giving on that yellow slip the balances due when the expired contract is cancelled. In other words, the suggestion is that when the companies authorize the Association to cancel contracts expired, that they should record the balances due and cancelled and that the same should be recorded upon the daily sheet and accounted for in the summary.

"The Chairman: Mr. Gaines, the yellow slip which manufacturers use for that purpose will answer in giving all this information.

"Mr. Gaines: Absolutely.

"The Chairman: It runs in my mind that this same matter was brought up in the early part of the year. Some companies were reporting contracts. How did they do that?"

"Mr. Gaines: The volume of expired contracts comes at the end

of the year. The past method of handling that has been to simply take off the expirations as we are authorized to do so by the different companies in their monthly report, and not carry those in our summaries, simply take them off of the contract report and consider them expired without notifying anyone of the balances due on expirations. The expirations have not been taken into our accounts, [fol. 1132] because we have not been notified of the balances due on expired contracts that have been cancelled.

"The Chairman: This is really not a change; it is simply to bring the matter around to a uniform method of handling it.

"Mr. Gaines: Absolutely."

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"The Chairman: Mr. Ward has been elected President for the ensuing year, Mr. Gaines Vice-President, Mr. Ackerman Treasurer and Miss Phalen as Secretary. Mr. Ward, I hand the rest of this meeting over to you to handle now. (Applause.)

"Mr. Ward: Gentlemen, I want to thank you for the honor. I suppose it is in order for me to make a speech, but I am not going to do so. However, I want to say that my predecessors, Mr. Griffith, Mr. Lober and Mr. Dutton, together with Mr. Gaines, have brought things up to where I feel it makes it easy for anyone else, and so long as we have our present Vice-President and Treasurer and Secretary on the job I feel that things will go along all right. And I further want to say that I think we have brought this organization up to where it is about one of the best of its kind in existence. Any organization that can produce the results that this one has, at an annual expenditure of \$50,000, I think is going some."

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[fol. 1133]

GOVT. EX. NO. 164

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the home office of the Association, Room 502, Berkeley Building, New York City, at 11:30 A. M., Thursday, February 20, 1919.

[fol. 1134] "Mr. Lober: Yes, sir. It is rather short this morning. The Credit Committee has just had a meeting and I am glad to say that we had the best attended and most interesting meeting of the Credit Committee that we have had in a long time.

"We discussed in a general way the three questions on the circular of February 6th, to credit managers. We also discussed the answers to the questionnaire which was sent out in connection with the action taken at the last meeting, to which we have quite a number of replies.

"The Credit Committee in its discussion and after its discussion felt that what was needed in connection with those two circulars was a full discussion on the part of the Credit Committee and also [fol. 1135] of the credit managers of the member companies. That cannot very well be had in the time at our disposal here. They have, therefore, decided to have in place of a meeting of the Credit Committee only in advance of the next meeting, a meeting of the credit managers to discuss these questions which have been circularized.

"We will have that Wednesday evening, in advance of the regular meeting of the Association, which will be the following day, Thursday. We can then report on the result of that discussion at the regular meeting, the next day, March 20th, I guess it will be."

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"Mr. Lober: I suppose you all noticed that the Credit Report was almost as prompt as usual. I got mine on the 19th, a week later than we would like to have it, and I have been inquiring this morning as we were discussing the questionnaire and so forth, the dates on which your reports got in here. Undoubtedly, they were not in on the 6th or you would have your reports sooner. Those of you whose reports were not here on the 6th must know it, and I do not think that there is any particular use of my calling the attention of the various credit men to the delay by specifically stating the dates they come in. I did that last month, and I have done it a number of other times.

"That, I think, might be another matter that could very profitably be discussed at those meetings which I mentioned a little while ago, [fol. 1136] to see if we cannot in some way get those reports in promptly. We can thrash that out later.

"I would like to see that report out not later than the 12th. I think it should not come out much later than the 12th. Every day means that much more risk in case there is something on there that would cause us to take action on some of our own accounts.

"Mr. Gaines: It takes seven days at the outside, to get that report out; sometimes we can get it out in six days.

"Mr. Lober: Seven days after the last one comes in?

"Mr. Gaines: Seven days after the last one comes in, yes.

"Mr. Lober: Well, that is the 12th."

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"The Chairman: In regard to the questionnaire that was sent out, did you receive replies from all members, Mr. Gaines?

"Mr. Gaines: We received replies from all members in time to get them out, with the exception of one company. They were all printed and sent out to member companies.

"Mr. Lober: All the members have received copies of replies. We can take that question up when we have this meeting which I mentioned a little while ago, and discuss it."

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[fol. 1137] "Mr. Lober: Mr. Matthes brings a suggestion to my notice in regard to this delay in getting in the credit reports.

"The question of sales and credits are intimately tied up. Mr. Matthes seems to think that it might be desirable to bring this delay to the attention of the sales managers, particularly, and to suggest to them that it is important for them to have this information in the hands of their company's credit departments at the earliest possible day, and that it might be of assistance if the sales managers of those companies whose reports are coming in after the 6th, get after their own credit departments and urge their own sales managers and ask their own credit managers to send in their reports more promptly.

"Possibly before I leave here today I might get information and speak personally to the sales managers and the credit managers of the companies both, that were behind last month, and see if that won't be of any assistance.

"The Chairman: No one has any unfinished business?"

"Mr. Gaines: Mr. President, at the last meeting of the Association I was instructed to advise the members that the following subject would come up for discussion at the next meeting, viz: The advisability of reporting to the Association the amount of the unshipped balances due on all contracts when contracts are cancelled with the [fol. 1138] Association, by member companies, upon expiration, completion or cancellation.

"The Chairman: I think the general idea of that was, as an illustration, a contract would be filed, say, for 10,000 barrels, and when that contract is completed it just shows on these reports as completed and there is no data to show whether there were 9,000 barrels or 11,000 barrels, or any specific quantity shipped on that contract.

"I think it was considered desirable to devise some method whereby all members would be informed of the exact quantity shipped on each and every contract filed, whether the contract was under-shipped or over-shipped, as compared with the quantity filed.

"Has anyone any suggestions to make in connection with that matter? May I ask, then, if there would be any objections, if any member has any objection to filing, when the contract is physically completed, with the Association, the exact number of barrels shipped under such contract?"

"Mr. Cover: Either complete or expired?"

"The Chairman: Either complete or expired, when the contract is finished, giving the complete details of the transaction. I do not suppose that there are but few contracts ever filed that the exact quantity as shown on the report is actually shipped on the job. They are usually a little under-shipped or a little over-shipped.

"Mr. Twamley: To get the matter before the house, I move that in future, in reporting contracts completed, that full details be given [fol. 1139] with respect to the number of barrels furnished in each case.

"Mr. Hilles: May I ask Mr. Twamley if he would have any objection to adding to that motion, to make it inclusive, all contracts that are completed, expired or cancelled, because we have three kinds of contracts that end.

"Mr. Twamley: No objection whatever.

"I mean, that when a contract is terminated or disposed of that full details be given as to the number of barrels shipped under the contract.

"Mr. Hilles: I second the motion.

"The Chairman: You have heard Mr. Twamley's motion, which has been seconded. All in favor, say 'aye'; contrary, 'no.' The motion is carried.

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"Mr. Coogan: I have a circular letter sent out by the Southern Statistical Bureau to Mr. Swett, Mr. Moyer, Mr. Stapleton, Mr. Cover, Mr. Griffith, and to Mr. Kimball of the Atlas Company. I believe there is an objection on the part of the Southern Statistical Bureau to exchanging information, and they have requested in this circular that those companies pay them a certain amount a month and join in with the Southern Association. I was wondering if we wanted to take any action limiting this Association to the Lehigh Valley mills, and making those shipped from Virginia subject to the Southern Association; in other words, cut off the activities of [fol. 1140] this Association at the Virginia-North Carolina line, as well as all activities with regard to reporting as well as paying dues on the shipments into that territory.

"The Chairman: As I understand that, Mr. Coogan, the members of this Association whose mills might be so located that they would be members of the Southern Association, would only report shipments into what would be termed the Southern Association, and to the Northern territory to this Association only; is that the idea?

"Mr. Coogan: It does not make any difference about the location of the mills. What they are after is with regard to the shipments into that territory, whether they come from the Lehigh Valley mills or the Virginia mills. They are after the shipments. They base their dues in a little different manner from what we do.

"Mr. Hilles: Is it my understanding that, for instance, if Mr. Ward shipped 50,000 barrels to New Orleans from his Hudson River mill, that he would not pay dues on the 50,000 barrels into this Association?

"Mr. Swett: Yes, he would; if he did not belong to the Southern Association.

"Mr. Hilles: That is what I want to make clear.

"Mr. Swett: In other words, those Lehigh Valley mills shipping to any extent down South should become members of the Southern Association and pay dues to the Southern Association on such cement as shipped into that territory.

"Mr. Smith: Irrespective of the amount shipped into the territory?

[fol. 1141] "Mr. Coogan: That is the way they have it in this letter.

"Mr. Smith: Then, if a manufacturer shipped a carload into one of those states he would have to pay full dues in the state?

"Mr. Swett: If a manufacturer shipped only one carload south he would be foolish to become a member of the Southern Association.

"Mr. Smith: He might want to become a member of that association for the purpose of getting information contained in their reports.

"Mr. Swett: Why would he be interested in a territory that he could not ship to?

"Mr. Smith: He would ship something. He might get information in the reports and want to ship more.

"Mr. Swett: If he were interested to any extent he should be a member of the association.

"Mr. Smith: That might depend upon how much it would cost him.

"The Chairman: Gentlemen, it would seem to me unfair that any member should pay double dues; that is, that he should pay twice on the shipments to any particular territory; that he should pay two associations on two shipments into any particular territory.

"Mr. Hilles: Will Mr. Coogan make a motion to set it clearly before us?

"Mr. Moyer: I do not think it is desirable for companies having no mill located in the Southern territory to split up their statistics between this association and some other association. I would not [fol. 1142] think it would be desirable for the Vulcanite Company to be a member of the Eastern Protective Association and the Mid-West Protective Association and report to them shipments into Ohio and not report those shipments into Ohio to this association. It destroys the value of the statistics to the Eastern Association. It seems to me that protective associations are organized along the line of grouping of mills; that all mills grouped in the South or on the borders of the South are grouped into the Southern Association; those in the Mid-West, in the Mid-West Association; and those in the East, in the Eastern Association, all placed along those lines. I do not think we ought to upset that plan.

"Mr. Swett: The Southern Association would only affect four companies. That is a large territory. They are evidently going to run their association along the line we are here, checking up the contracts. Now, that territory extends as far as the Mississippi River on the West.

"I think any concern that ships a volume down in that Southern territory should belong to that Southern Association and stand some of that expense, because the contracts are checked up from the Southern Association report and not from here.

"The Chairman: As I understand Mr. Coogan and Mr. Swett, they do not intend to divide the information; that they will still give this Association all the information they are giving at the [fol. 1143] present time, but what they are really objecting to is paying double dues to the Southern Association and to this Association on the same shipments.

"Mr. Swett: No. They won't give the information either. They will give the information to the Southern Association. If the Lehigh

Company, for instance, joined the Southern Association, we will not report our contracts in the Carolinas or Virginia to this Association. We want it based on shipments made into those states, we won't pay dues here on those shipments.

"The Chairman: What would you do, in regard to reporting your shipments, for instance, total shipments; would you divide your shipments?"

"Mr. Swett: Certainly. We would have the Southern Association take care of the Southern territory, the same as the Mid-West does of the Central West, and the same as the Eastern Association does of the East.

"Mr. Coogan: If you shipped 20,000 barrels of cement from the Lehigh Company mills south, you would show that in with the general shipments?"

"Mr. Swett: Certainly; that would have to be done.

"Mr. Coogan: You could not divide your shipments.

"Mr. Moyer: As long as there is no division of shipments, so that the value of our shipments as to production and total shipments is [fol. 1144] not disturbed, why, I see no objection to any company that ships a sufficient amount of cement into the South as an individual joining the Southern Protective Association.

"Mr. Coogan: Then I move that any company desiring to take out membership in the Southern Statistical Bureau be granted the privilege of reducing the report of shipments on which dues are based by the amount of cement which is shipped into the territory covered by the Southern Statistical Bureau, and that the reports covering the activities of that company in the field covered by that bureau be made direct to the Southern Statistical bureau, instead of this Association, with the understanding that the shipments, total reports of production and shipments, be carried on the same as at present."

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[fol. 1145]

Govt. Ex. No. 165

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the home office of the Association, Room 502, Berkeley Building, New York City, at 11:30 A. M., Thursday, March 20, 1919.

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[fol. 1146] "Mr. Lober: There was a general meeting of the Credit Managers last evening, as was announced at our last meeting, and as stated in the minutes of the last meeting.

"We had a very satisfactory attendance and a very full discussion of the credit matters which were brought up as previously announced. There will be a summary of the discussion sent out from the Associa-

tion office to the Credit Managers, either printed or mimeographed as may seem to be desirable and that will comprise the report of the Credit Committee for this meeting.

"There is no use of going over all that. It would take me a considerable amount of time and you will all get it in printed form or typewritten form.

"There will be another meeting of the Credit Managers similar to the one last night next month, and in all probability that will be the night before the meeting of the Association.

"I would like to add one thing to the discussion last night that I intended to mention and forgot, and that was in connection with the analysis of the monthly report. A year or two ago Mr. Hilles of his own initiative figured up a sheet which showed as of—I think it was January 1st, 1917, but I am not sure, the amounts opposite the number of each company on the summary sheet per hundred thousand barrels of cement shipped during the previous year.

[fol. 1147] "In other words, the summary sheet as you get it shows the total which each company has outstanding on the monthly sheet. That cannot be compared relatively to the totals of the other companies unless you know how much the other company in question has been shipping. The company that is shipping at the rate of a million barrels a year, for instance, should have on the monthly report, say, only one half as much as a company shipping at the rate of two million barrels a year, to compare equally.

"To get your own standing as compared to other companies you would have to figure your amount on the summary sheet the first of any one month per one hundred thousand barrels of cement shipped during the previous year, or for a million barrels, or any way you chose to figure. One hundred thousand barrels seemed to be a convenient figure. I do that occasionally for my own information.

"I meant to bring that up last evening for the information of the other Credit Managers and suggest that they may do likewise if they wanted to find out just how their collections outstanding at the first of any month compared to other companies who were reporting to the Association. You can of course get the shipment of other companies by taking their statistical report now at this office."

* * * * *

"The Chairman: We have several matters which were taken up [fol. 1148] at the last meeting which are to come up for further discussion today. One of them is the printing of the monthly contract report. I have talked to several member companies and I find that a great many of them are of the opinion that we should print that contract report monthly regardless of the fact that there may not be a great number of contracts to report. I will be glad to hear any discussion of statistics or any motion in regard thereto."

* * * * *

"The Chairman: At the last regular meeting the question was brought up in regard to interchanging information and statistics with

a proposed association comprising the mills in the South Atlantic States, that Association to be built along the lines of our Association.

"At that meeting I was authorized to appoint a committee of three to go into this matter particularly with regard to what dues, if any, members of this Association that made shipments into the territory mentioned should pay, and where the dividing line should be, and so forth. Now I went a little beyond my instruction in that respect and appointed a committee of six, instead of three, and before that committee makes a report or discusses the matter I would like to have a resolution ratifying my appointment of the committee of six instead of three. The committee is composed of Mr. Holman, Mr. Swett, Mr. Cogan, Mr. Moyer, Mr. Griffith and Mr. Scott.

"Mr. Smith: I move that the action of the President be affirmed. [fol. 1149] "Mr. Ackerman: Motion seconded.

"(Motion unanimously carried.)

"The Chairman: Mr. Holman has had that matter up and has handled it for the committee and I will ask him to make a report on it as the matter now stands.

"Mr. Holman: We had a meeting in New York on Wednesday the 12th, and following the meeting I wrote a letter to Mr. Dickinson, the Chairman of the Auditing Committee, of the Mid-West Bureau. I will read this letter and that will explain to you all the opinion arrived at by our Committee here in the way it was presented to Mr. Dickinson.

"March 13, 1919.

"DEAR MR. DICKINSON: At the last meeting of the Protective Association the President was asked to appoint a committee to investigate and report upon some manner of cooperation with an association to be formed by the Southern mills. This committee, of which I am a member, had a meeting yesterday and it was considered inadvisable for members of the Protective Association making shipments into the South to join the Southern Association and report to it shipments made into the Southern territory, which shipments are now being reported to Protective Association.

"It is the understanding of the committee that if an association is formed in the South along the lines of the Protective and [fol. 1150] Mid-West Associations that the expenses of the operation will be more than the Southern mills feel they can afford.

"It was the opinion of the committee that the best results could be obtained by memberships in various associations by companies local to the district or territory in which the association is formed, and an exchange of information along the lines that we have discussed as between the Protective Association and the Mid-West Bureau. A suggestion was made that if an association was formed by the Southern mills along the lines of formation and operation similar to the Protective Association or the Mid-West Bureau, which our counsel would approve of and would authorize exchange of information, that the Protective and Mid-West Associations, as associations, contribute a sum of money towards the expense of operating said Southern Association, which would meet the finan-

cial requirement and allow both the Protective and Mid-West Association to proceed as now without withdrawing any tonnage reported to either Association and reporting it to the Southern Association as members of that Association. Our counsel advised that he would approve of such an arrangement, if satisfactory details could be arranged. We decided to hold the entire matter in abeyance until we could refer the matter to you and ascertain whether or not your bureau would be favorable to such a plan. The amount to be contributed by the Protective and Mid-West Associations would be arrived at by an estimate of the tonnage shipped into the Southern [fol. 1151] territory by the companies which are now members of these associations. Such a plan would enable exchange of information among the three associations based upon no changes in the present membership.

"It was deemed advisable to defer any report or action on the matter until we could get the views of your Bureau. I shall be glad to hear from you as early as convenient."

"I sent that letter to Chicago in time to be received by Mr. Dickinson last Friday before the Mid-West Bureau held its regular monthly meeting. Mr. Dickinson advises me in reply under date of March 17th:

"Your letter of March 13th with reference to the proposed plan of cooperation between the Protective Association, Mid-West Bureau and Southern Association was duly received, and presented to the members of the Mid-West Bureau at their regular monthly meeting held on March 14th. A motion was thereupon made and carried to the effect that the Chairman of the Mid-West Bureau be authorized to enter into negotiations with the proper parties and have the power to take what steps are necessary in order to secure the cooperation and coordination of the three associations, along the lines suggested in your letter.

"As Chairman of the Mid-West Bureau, I shall therefore be glad to go into the matter further with you and make such arrangements as will be satisfactory to all concerned, with a view to the exchange [fol. 1152] of information between the Southern Association and our respective organizations following the formation of the Southern Association along similar lines to ours, which would meet with the approval of our respective counsel."

"As I understand that, the proposal which the Committee made to the Mid-West Bureau has been accepted subject to the working out of the details satisfactory to them and the Association, to their counsel, and I think it is now before you gentlemen for consideration, so far as the attitude of the Protective Association toward the plan is concerned.

"The Chairman: You remember the extensive discussion we had on this subject at the last meeting, and this is apparently a happy solution of the situation, to my mind. The matter seems to me

to be up to the Southern Association now, as the Mid-West and our Association are apparently in accord in the matter, and I think it would be well for us to adopt a similar resolution to that adopted by the Mid-West and to keep this Committee intact to work out any further details with the Southern Association when it is properly formed, then we can go ahead, based upon their willingness to meet the views of this Association and the Mid-West, subject to the proper formation of their Association, which will be decided by Mr. Cox at the proper time.

"Do any of you gentlemen want to hear this resolution as passed [fol. 1153] by the Mid-West Bureau again? I will ask Mr. Gaines to read that part of Mr. Dickinson's letter to Mr. Holman.

"Mr. Gaines (reading): 'Motion was thereupon made and carried to the effect that the Chairman of the Mid-West Bureau be authorized to enter into negotiations with the proper parties and have the power to take what steps are necessary in order to secure the cooperation and coordination of the three associations along the lines suggested in your letter.'

"Mr. Twamley: I offer a similar resolution that the committee of six members that has been appointed by you be empowered to conduct negotiations along the lines suggested in the Mid-West resolution."

* * * * *

Mr. Hilles: I second the motion.

The Chairman: Gentlemen, you have heard the motion.

(Motion carried.)

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[fol. 1154]

Govt. Ex. No. 166

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the Home Office of the Association, Room 502, Berkeley Building, New York City, at 11:30 A. M., Thursday, April 17, 1919.

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[fol. 1155] "Mr. Lober: The Credit Committee had a meeting and the credit managers had a meeting last evening. A summary of the minutes of the meeting of March 19th had been made by Mr. Medler. The office here will send copies of that summary to the credit managers. I do not know whether they will go out today or not, but within a day or two they will be issued.

"The Credit Committee in going over the minutes has made a series of recommendations which cover a considerable portion of the

minutes, but not all. These recommendations were submitted to the credit managers last evening and were adopted as good practice, and the office will issue those.

"The recommendations were as follows:

"April 10th, 1919.

"At the meeting of the Committee, held at the office of the Association, Wednesday afternoon, April 9th, 1919, the Minutes of the Meeting of March 19th were reviewed and studied with the result that the following recommendations are made:

"First. The Committee recommends, in view of the satisfactory meeting held on March 19th, that the Credit Managers hold more frequent meetings and that for the present these meetings be held monthly.

[fol. 1156] "Second. The Committee recommends, that Member Companies continue reporting the amounts of accounts in the hands of attorneys which are due them.

"Third. The Committee recommends, that each Member Company adopt a system which will enable it to report to the Association unpaid accounts 60 days old or more promptly at the end of each month, even under extraordinary conditions, which might delay the closing of their customer ledger. Member Companies wishing suggestions relative to such system may communicate with the Chairman of the Committee.

"Fourth. The Committee recommends, that Member Companies report their unpaid accounts at the end of each month in accordance with their books at the close of business for that month. Members should not hold up report to the Association pending any adjustments during the month following.

"Fifth. The Committee recommends, that Member Companies report all notes receivable and Trade Acceptances. The report should show the month or months' accounts that the notes or Trade Acceptances cover, the day of maturity and the amounts thereof. In case of a renewal of a note the word renewal should be added to the above information. The Committee particularly calls the Members' attention to the fact that in reporting the renewal of a note the month or months' accounts which the original note covered should still be shown. In case a note or Trade Acceptance is pro-[fol. 1157] tested or unpaid on maturity, it should be so reported and returned to the original ledger account.

"Sixth. The Committee calls the attention of the Members to the free service given by Dun & Bradstreet in the way of letters of introduction for salesmen, giving them access to credit reports in branch offices. Pocket editions of the reference books for States and large cities can be purchased from the Commercial Agencies. * * *

* * * * *

"Another matter that was discussed last night was the question of sack returns, the great variation which is shown in the rejections as between various member companies.

"The credit managers felt that the variations were larger than they should be, and that something might be done to reconcile those differences, and they would like to have the office here take up that question with the various companies and find out which man in each organization is directly connected with that work, and see if it would not be possible to have a meeting and discuss these differences and find out if there was not some way to have some more uniform method of inspecting return sacks so that the results would be comparable instead of showing such an enormous variation.

"I think the difference—from a minimum to the maximum—is something about five to six times. I do not know whether any action would be required by this meeting to authorize Mr. Gaines to start [fol. 1158] that now. We discussed it last night for a little while and we felt that it might be gone into further to advantage to all of us.

"Mr. Griffith: Is there any idea suggested how to get at this?

"Mr. Lober: All that I remember was we were to try and find—we did find out last night that some of the men who were at the meeting were not in a position to go into the matter; that is, they did not have anything to do with that particular feature of their own company's business. Others were in a position to discuss it, and it was felt that the first thing we ought to do was to find out just who in each company should be consulted or brought into a meeting with that particular object in view.

"The Chairman: Do you think it possible, Mr. Lober, that instructions could be issued, or any plan formulated, whereby the men inspecting sacks—different men in different companies inspecting these sacks—could determine what was a good sack and what was a bad sack. Does not the human element enter in there to a great extent?

"Mr. Lober: It enters into it to a very great extent, but it seems to me the differences as they are now are too great to be entirely covered by the personal equation. Possibly by discussion we might draw up some standard rules for inspection which would tend to make it somewhat more uniform. I do not know whether we could or not.

"Mr. Dutton: Do you not think when these sacks are inspected that [fol. 1159] the man who is inspecting them knows whether or not they are fit for re-use again? That being the case, I should think the personal equation in there would not amount to much because a sack that one mill can use again is practically in the same condition that another mill could use again. If they cannot repack a sack they should not give credit for it.

"Mr. Lober: The results apparently do not show that. You can take your own statistics in regard to returned sacks here in the East and compare them to the Mid-West statistics, and you will find great variation in the case of the same company where the same company happens to be represented in both associations.

"The Chairman: I think you will find that one reason for that

variation is that some companies allow credit for any sack which can be repaired and used again, and others do not.

"Mr. Lober: That would not account for it either because we do that. Any sack we can use we allow credit for. As a matter of fact, our own experience is that we allow credit in spite of our rejections being around the average, sometimes larger—we allow credit for sacks which we cannot use. That is, sacks where the personal equation comes in; that is, the inspector has figured that the sack is useful. When we come to pack it in the packing house it breaks down on the machine. We have a certain amount of loss there. That, of course, is due to the judgment of the inspector, which is not always perfect. [fol. 1160] It is quite possible on the other hand that he rejects some that might withstand the packing again, but I do know that all of them that are bad are not rejected.

"I do not know whether anything can be worked out on that line or not. I might say that the same matter was put up to the Package Committee of The Portland Cement Association, to try and work up something in the way of a specification or a set of rules for inspecting, and possibly testing, return sacks which would as far as possible make that inspection at the various mills uniform.

"The Chairman: Has any one any suggestion as to how that could be done?

"Mr. Dutton: My candid opinion in this whole matter is this, that with some of the companies the sales department has too much to say regarding bag credits. I know it is very easy for a company to have certain accounts which they do not want to lose where there were complaints coming in of bag credits, to overlook and go ahead and give them a credit that they were not entitled to. I feel that this is largely due to the selling end of it that that is done, because I cannot conceive why there should be this big variation in bag credits if it was left entirely to the operating department and the credit department in the mills."

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[fol. 1161]

GOVT. EX. No. 168

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the Home Office of the Association, Room 502, Berkeley Building, New York City, at 12:32 A. M., Thursday, July 17, 1919.

* * * * *

[fol. 1162] "Mr. Cope: I suggest that in reporting contracts by the member companies to the Association that in reporting we mention the name of the dealer and the delivery point of the cement. I would like to see the home town or home city of the dealer who

buys cement from the cement company, and I offer that as a resolution, that hereafter in making reports that we mention the town or city of the dealer.

"The Chairman: Could that be done, Mr. Gaines, without entailing a great deal of extra work?

"Mr. Gaines: It can be done very easily. No extra work at all.

"The Chairman: Gentlemen, you have heard the resolution that in making contract reports we give the dealer's home town as well as the delivery point. Is there any objection?

"(Motion unanimously carried.)

[fol. 1163] "Mr. Gaines: The members will probably be interested to learn that this office was visited on Tuesday, July 8th, by Mr. Henry S. Mitchell, Special Assistant to the Attorney General of the United States, Department of Justice, who stated that he had been commissioned to investigate the cement industry and the operations, particularly of this Association.

"We furnished Mr. Mitchell with all of the data that he called for, lists of our reports, examples and samples of all our work, and I answered as best I could such questions as he asked me. With the permission of the members of the Association I will continue to assist him in every possible way in the investigation that he has undertaken.

"Mr. Twamley: Is it not a fact, Mr. Chairman, that our reports and our minutes are sent to Washington each month?

"Mr. Gaines: I will answer for the President, that it is a fact that since the organization of this Association we have furnished continuously samples of all reports and minutes of all meetings to the Federal Trade Commission.

"Mr. Hilles: Copies of all reports?

"Mr. Gaines: Copies of all reports except daily reports. We furnish a sample of daily reports, and a copy of each monthly contract report with such other reports as we made to the Federal Trade Commission. I called that to Mr. Mitchell's attention, but it seems that [fol. 1164] the departments in Washington do not co-ordinate and he asked that we send such reports as he wanted direct to him at Washington, which we did.

"Mr. Lober: Does he want those reports regularly, or does he just want them at this particular time?

"Mr. Gaines: Just at this particular time. He did not make any request as to the future.

"Mr. Lober: You wish a resolution authorizing you to send to him the reports just the same as you do to the Federal Trade Commission?

"Mr. Gaines: I would appreciate it if a resolution was offered stating whether or not I had followed your wishes in this matter and authorizing me to cooperate in any way that he may ask.

"Mr. Lober: I offer a resolution to the effect that it is the intention of this Association to comply with the requirements of the Federal Government, and that the action of the Vice-President in assisting the special representative of the Department of Justice be approved and that he be instructed to continue to cooperate in every way possible.

"The Chairman: Gentlemen, you have heard the resolution?

"(Motion carried.)

"The Chairman: In regard to the next meeting, we have always had a great deal of trouble in getting a quorum here for the August meeting, as a great many of the members are away, and I would suggest that if agreeable to every one we do away with the August meeting and have the next meeting in September.

"Mr. Twamley: I make a motion to that effect.

"Mr. Cope: I second the motion.

"(Motion unanimously carried.)"

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[fol. 1165]

Govt. Ex. No. 170

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the home office of the Association, Room 502, Berkeley Building, 19 West 44th Street, New York City, at 11:30 A. M., Thursday, October 16, 1919.

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[fol. 1166] "The Chairman: Have any of the members present any new business which they would like to bring before the meeting?

"Mr. R. W. Hilles: Mr. President, I have not any new business to bring before the meeting, although I desire to mention once more the importance of sales managers as well as credit managers interesting themselves in bond laws in their respective states where they ship cement. As you know, we have good bond laws in some of the states, particularly in New Jersey.

"In view of the fact that dealers and so-called jobbers in the cement industry have reached a position where cement manufacturers will carry their accounts themselves in many cases on road contracts and on public work, by selling direct to the contractors, [fol. 1167] it is greatly to be desired that each and every company through their respective representatives residing in the states where there are not adequate bond laws should interest themselves in this subject. Get in touch with representatives in the legislative bodies of those states and, particularly in the case where you know a Representative, see him personally and explain to him the necessity of such a law. Get a copy of the New Jersey law from the Chairman of the Credit and Collection Committee.

"If this subject is not quite suitable for further discussion in this meeting I apologize; but I leave the thought with you, not having been interrupted up to this point.

"The Chairman: I think that that would be a question that we

should take up at a meeting of the credit managers. It seems to me that would come before the credit managers of the different companies.

"Mr. R. W. Hilles: Mr. President, I agree with you. The particular reason I mentioned this at this meeting is because the sales managers have charge of the salesmen. In my wanderings around the country and investigations I found the salesmen of many of the companies are politically far more influential than either the sales managers or the credit managers. I found legislative members chumming around with the salesmen of some of the cement companies. It shows how high the industry has risen."

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[fol. 1168]

GOVT. EX. NO. 171

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the Home Office of the Association, Room 502, Berkeley Building, 19 West 44th Street, New York City, at 11:15 A. M., Thursday, January 15, 1920.

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[fol. 1169] "Mr. Coogan: The proposed budget for the year 1920 is estimated at \$55,512. In addition to that, there has been some \$1,500 expended by the attorneys on this government suit, and which should properly be paid by the Association, which will make the total \$57,000. The estimated shipments, as near as we can get to them, are about 27,000,000 barrels, and on the same rate of dues, two mills per barrel, as last year, it would bring you in \$54,000, and with an unexpended balance from last year of approximately \$3,000, will give you \$57,000.

"The printing of the contract reports has been raised from \$5,000 to \$10,000, and the Committee recommends, in order to bring it within the \$10,000, for the present we lay our lines to prepare to print the contract sheets four times during the next year. At the same time, the contract reports are printed you can also get out the report of the balance due on contracts divided among the different states. If we find it necessary later in the year to print the contracts more often than that, it will be necessary to raise more money, but we can do that at that time. We feel that under existing conditions, and as far as we can see at the present, four copies ought to be sufficient to carry us through.

"The only other increase of any importance is in the expense of running the office, and most of that is in the detail of the office work, which last year was \$6,682, and this year our estimate is [fol. 1170] \$10,712, and there are some little increases in the other items, but most of the increase is in the expense of running the office.

"If anybody has any questions they want to ask about this report or proposed budget, we would be very glad to answer them as well as we can.

"Mr. Cover: How many auditors does this provide for?

"Mr. Coogan: I believe three auditors. There is no increase in the number of auditors in the field. There is a little additional money covering their additional travelling expenses and perhaps some slight increases in their salaries.

"The Chairman: Gentlemen, you have all heard the report of the Contract Committee, and if there are no objections, we will let the report stand and fix the dues on last year's shipment of 27,000,-000 at two mills.

"Mr. Coogan: I make that as a motion, Mr. President, that the dues for 1920 be fixed on the same rate as last year, two mills per barrel, based on the shipments for the year 1919.

"Mr. Goode: I second the motion.

"(Motion unanimously carried)."

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[fol. 1171]

GOVT. EX. NO. 172

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the Home Office of the Association, Room 502, Berkeley Building, 19 West 44th Street, New York City, at 12:15 P. M., Friday, February 27, 1920.

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"Mr. Coogan: The Contract Committee held a meeting on February 6th, at which time Mr. Gaines presented us this letter, addressed to Mr. Alker, President, which reads as follows:

* * * * *

[fol. 1172] " 'Cement Manufacturers' Protective Association

19 West 44th Street, New York

" 'January Thirtieth, Nineteen Twenty.

" 'Mr. E. P. Alker, President Cement Manufacturers' Protective Association, 19 West 44th Street, New York City.

" 'DEAR MR. ALKER: Beg to herewith tender my resignation as Vice-President of the Cement Manufacturers' Protective Association, to take effect at such time as you may find it convenient to relieve me of my duties.

" 'Thanking you, and, through, you, the members of the Association for the many courtesies that you have all extended to me during the time that I have held the office, I beg to remain,

" 'Yours very truly, H. S. Gaines, Vice-President.'

"The committee discussed the matter with Mr. Gaines and got his ideas as to when he would like to be relieved of his duties here, and while we were anxious to hold him as long as we could, we felt in all fairness to him, under the conditions, that we should accept his resignation effective as of March 1st, and in order to have it formal, I will make a motion that the resignation of Mr. H. S. Gaines, as Vice-President be accepted, to take effect on March 1, 1920

"Mr. Swett: I second the motion.

"The motion was carried.

"Mr. Coogan: At that meeting there was a subcommittee appointed to recommend to the Association the election of a successor to Mr. Gaines, and this sub-committee has worked in connection with the Committee as a whole and for the Committee I would recommend the election of Mr. C. R. Hulsart, who at the present time is an assistant to Mr. Wait, in the Portland Cement Association's office in New York City, and the Committee would recommend the election of Mr. Hulsart as Vice-President, to succeed Mr. Gaines.

"Mr. Smith: I move that the report of the Committee be received and the recommendation adopted.

"Mr. Naylor: I second the motion.

"The Chairman: You have all heard the motion.

"Motion carried."

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[fol. 1173]

GOVT. EX. NO. 173

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the home office of the Association, Room 502, Berkeley Building, 19 West 44th Street, New York City, at 11.45 A. M., Thursday, March 18, 1920.

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[fol. 1174] "Mr. Ackerman: In connection with reading the minutes of the last meeting, at which I was not present, a discussion came about as to charging companies for either cement sent out or cement received. As I understand it, it is now the consensus of opinion, if not the direct request, that the company issuing the cement stand the cost; that is to say, if 'A' Company ships 100,000 barrels total in January and of that 100,000 ten goes to 'B' Company, 'A' Company pays on the 100,000.

"The Chairman: That is my understanding. I believe that is the general understanding, Mr. Ackerman.

"Mr. Ackerman: Very well. Now, that will necessitate a change in I think all but five companies' bills that went out the first quarter, as there was a great deal of intershipping. We can take care of it, but as we send out the April bills, we will charge or credit the difference as the situation shows up at the time.

"The Chairman: I think that will be satisfactory.

"Mr. Ackerman: I will leave that to the accountant just exactly how we will manipulate it, but if there is a little over or under in each bill, you will understand what it means. In the future the shipping company is to be charged.

"The Chairman: The company making the shipment will be charged.

"Mr. Ackerman: The originating company.

[fol. 1175] "The Chairman: The originating company. Is there anything under unfinished business that any one wants to bring up? I do not think there is any unfinished business. Is there any new business to come before the meeting?

"Mr. Swett: I am beginning to feel that possibly the Association has not enough auditors to check up request on contracts; that is, requests for information on contracts. As we all know, the bookings for the last three or four months have been very, very heavy, and the outlook is that it will be much heavier, and I think this would be the time for us to consider at least the question of putting on more auditors so as to keep these contracts up to date. I would like to see how you feel about that.

"The Chairman: How far behind are we now?

"Mr. Hulsart: It depends on territory largely. We are keeping pretty well up in Pennsylvania, in the vicinity of Philadelphia, which can be reached by an auditor there. We are keeping well up in New England and the vicinity of New York, but in the upper part of New York State, being covered by one auditor, he is moving from Buffalo towards New York, which leaves some requests for investigation, which we will reach in the course of a couple of weeks. That leaves them standing for some time, and while he is doing that other requests come up in Buffalo, which he will have to get back on after two or three weeks.

"Mr. Swett: Is there not a possibility that the Cement Manufacturers [fol. 1176] are not requesting information on their contracts as they have in the past?

"Mr. Dutton: I would like to make a statement there. In figuring over the contracts on file with the Association, I believe you will all agree with me that there is more tonnage on file today than there has ever been before. Now, to enable each company to be of as much assistance to the Association in checking up duplications, and so forth, I feel that this proposition of issuing this report only once every three months, that we are making a big mistake. Now, ordinarily I have a practice when the report comes in every month of going over the thing pretty carefully, and where I can find the contracts gathered together geographically, I can discover duplications among my own contracts and my competitors, a great deal quicker than I can now by having to take the old report in December and then check down from three months of those daily reports. It is very easy to overlook a duplication in that way. Now, of course, I appreciate that we eliminated that report on account of the expense, but it is just a question, if the Association is going along for several years with that expense, I think we are making a big mistake to try to cut down the expense now when we really need that information collected geo-

graphically as frequently as possible in order to get these duplications.

"Now, the auditors and Mr. Hulsart here, of course, are going to keep in touch with it, but we can all be of immense assistance to him [fol. 1177] and his auditors by checking up individually ourselves. So I think the extra expense for a monthly report would well pay for itself for a while anyway. I would like to hear what the other members think about it.

"Mr. Swett: May I ask when the next monthly report will be issued?

"Miss Phalen: As of June 1st.

"Mr. Swett: Then I make a motion that it be brought forward as of March 1st.

"Miss Phalen: The one of March 1st is now in the course of being printed.

"Mr. Swett: That is all that is necessary then.

"Mr. Dutton: That is March 1st. What is the idea?

"Mr. Swett: First we will take the March 1st report and work on that, and then we will see at a later date whether it is necessary to bring forward the June 1st a month or so.

"Mr. Dutton: Still you cannot leave that go to the last minute, if the Association has to print that report; we cannot let it go to the last minute.

"Mr. Swett: If we clean house as of March 1st, we will find that a matter of sixty days will not be so much.

"Mr. Moyer: I move that the matter be referred to the Contract Committee.

"Mr. Swett: Would not that mean a delay?

"Mr. Moyer: Not necessarily.

"Mr. Swett: The Contract Committee will decide as to whether it will bring that June 1st contract report forward to May 1st.

"Mr. Swett: As of March 1st.

"Mr. Dutton: Ordinarily we would get one as of April 1st, under the old arrangement.

"Mr. Swett: You know your booking from March 1st to April 1st will not mean so much.

"Mr. Dutton: That is right. I imagine if we get one by May 1st that will be a great deal better.

"Mr. Swett: The Contract Committee will take that matter under consideration.

"The Chairman: It has been moved and seconded that this matter be left in the hands of the Contract Committee.

"(Unanimously adopted.)

"Mr. Swett: Now we will go back to this question of putting on new auditors. I know that our company is very much interested at this time to know whether our contracts are bona fide or not, or as to whether they are overestimated, and I imagine that the majority here is just as much interested as we are. The bookings have been very large; I guess greater than it has been for a number of years, and I believe in preparedness; I believe that we should put on these new auditors now and have these contracts investigated with the information that is necessary, because it might be at a later date

when we are even more anxious to have these contracts investigated than we are now, we would just simply snow under the organization, we would not be able to handle it, while, if we had a few auditors [fol. 1179] and kept those investigations up to date, I feel most of us would be better satisfied. It is going to cost more money, but I think it is necessary.

"Mr. Goode: I agree with Mr. Swett in everything he says. I think now is really the time for every company to know exactly and accurately what the commitments are. If we go into the summer, there is no knowing where we all stand, and we will all be in a better position to conduct our business and know what new business to take on.

"Mr. Dutton: Mr. Chairman, why not refer that to the Contract Committee to take up at the same time we are taking up this monthly report proposition? Each goes hand in hand. I will make that motion.

"Mr. Cope: I second it.

"The Chairman: It has been moved and seconded that the matter of increasing the number of auditors be left in the hands of the Contract Committee.

"(Motion was unanimously carried.)"

* * * * *

"Mr. Swett: Mr. Cox, here is a matter we would like to take up with you. The Pennsylvania Highway Department is very much worried at this time as to whether it will be able to secure enough cement to go on with their road program for this year, and we felt it might be a good idea for us to meet at luncheon today and decide among ourselves just what we could do in the way of furnishing the quantity of cement desired by the Pennsylvania State Highway Department. Would that be in order?

"Mr. Cox: I presume that you mean that the discussion at the luncheon will be confined solely to getting out the cement; it will not have anything to do with bids or anything of that kind?

"Mr. Swett: Just a question of whether we can produce enough cement to take care of their wants. That will be the discussion entirely.

"Mr. Cox: There is no objection if it is confined to that, as I assume it will be."

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[fol. 1180]

GOVT. EX. NO. 174

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the Home Office of the Association, Room 502, Berkeley Building, 19 West 44th Street, New York City, at 11.30 A. M., Thursday, April 29, 1920.

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[fol. 1181] "Mr. Moyer: The Contract Committee held a meeting immediately after our last meeting and decided that, owing to the large number of contracts on file—it was in excess of any previous period, that it would be necessary to employ two more inspectors to investigate them. We authorized the employment of two more men, and I understand that Mr. Hulsart has been able to obtain only one more at the present time.

"You have something to say, Mr. Hulsart, about that?

[fol. 1182] "Mr. Hulsart: In connection with the investigation of contracts, and the general work that is being handled in the office, I have made the following notes:

"The work in this office, as you all know, consists partly of contract investigations and the preparations of the reports of investigation that go to the member companies and partly of the work of filing and preparation of statistics relative to contracts that are filed in this office, together with other incidental work.

"The number of investigations that were made in 1919 averaged 59 per month; in 1920 they have been as follows: Based on the reports that were prepared in this office, the actual number of contracts investigated has differed slightly, being more or less. So there were prepared in this office in 1919 an average of 59 reports per month; and in 1920, January, 81; February, due to illness of office force, only 29; March, 80, and in April, including yesterday, the 26th, 147. At that rate there will be over 160 in April. That is an average of 90 per month for these four months, including February, which had the small number of 29.

"That shows the need of the additional investigators, but I am having difficulty in getting the kind of men I think you all agree are required to properly represent the cement industry in handling these investigations. Our investigators frequently meet some very delicate situations, and it takes a man with some personality and presence to handle those situations tactfully and to get the necessary information to prepare the proper report to the member companies. I have been able to get only one additional man. Another man is considering taking the sixth position, and I expect to hear from him today. We are paying those men \$175 a month, and I do not believe that we will be able to keep six such investigators as I feel we should have at that salary.

"So much for the investigation of contracts, indicating that this month, for instance, we will prepare nearly three times the number of investigations that were prepared monthly last year.

"Our commitments on March 1st of this year were seven times what they were last year. Assuming that the average size of contract for cement this year is about the same as last year, we have about seven times the number of contracts on file March 1st this year as last. This means that a large proportion of the work done in this office is several times what it was last year. This work is being handled at present with the same office force. It means pretty steady hard plugging on their part, and I wanted to be sure that the members know all that they are doing. Every one in the

office is working mighty hard. They are working extra hours and putting in full time while they are here."

* * * * *

"Mr. Dutton: * * * I also feel that the Association has not been up against conditions such as they are today for about two [fol. 1184] years. In November, 1917, I think we had a bunch of contracts filed very close to each other, and today, with conditions as they are, I think it is very necessary that we get our reports on contracts investigated immediately, and, of course, if the office is catching up, that will help, to some extent, but we realized at the last meeting that we needed two more investigators.

"It is just a question in my mind if we can get the proper kind of men at that salary. Wouldn't it be proper, in consideration of the salaries that men are getting today, to go out and pay a man what he is worth to get the proper kind of men? Our company itself is going to start in a very few days, to go over our contracts very carefully. I am going to ask the Association to audit them for me. If that is the case with our company, I presume that is the situation with a lot of other manufacturers. I do not think any time should be wasted on that if a few dollars more will help us get the thing done in the way we want, because that is information we should get. I do not know how the other manufacturers feel about that. However, I do not feel this is the time to quibble about a few dollars.

"The President: I do not think there is any limit placed on the salary paid the auditors.

"Mr. Swett: I do not think that there has been by the Association, but nevertheless, there has been a maximum, trying to keep the salary around a certain figure.

"The President: I think that if we have got to pay a man \$200 a month, we have got to do it, that is all.

"Mr. Swett: That is right.

"Mr. Hulsart: I might say that the only limit is that a certain salary was indicated in the budget prepared for 1920, and any increase in salary, as is also the case with the increase in the number, will involve increases in the budget, which matter I am not prepared to discuss in definite figures at the present time, but can at a later meeting.

"Any increase in the office force would so crowd us that more space would be absolutely essential, which would involve still more expense. We hope to avoid that, and Miss Phalen thinks that by treating the force that we now have fairly in every way, including the matter of salaries, that they will be able to handle the work.

"These matters may necessitate a request for a small amount of additional money. If so, I will be better prepared to take that up more definitely later."

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Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the Home Office of the Association, Room 502, Berkeley Building, 19 West 44th Street, New York City, at 12:10 P. M., Thursday, September 23, 1920.

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[fol. 1186] "Mr. Moyer: Why shift the responsibility on me? The report reads as follows:

"The Contract Committee at a meeting held at the Association office, August 19, 1920, considered the statement of expenditures for the first six months and estimated expenditures for the last six months of this year. The estimated total for the year of all items contemplated in the 1920 budget is within the total of that budget. The amount that the total estimated expenditures of all items for 1920 exceeds the budget is on account of the expense of additional field engineers, not contemplated in the budget, but necessitated by the very large number of requests received for the investigation of contracts. Already this year there have been investigated more than twice the number of contracts investigated all of last year; and for the last three months, the average number per month has been four times the monthly average for 1919. Notwithstanding this, requests for investigation have been received in greater number than they could be handled. About 500 requests were received in August, while our field men were able to investigate only half that number. The Contract Committee has, therefore, authorized the temporary employment of two additional field engineers making seven in all and an additional typist for this work.

[fol. 1187] "In view of the importance of keeping up this valuable service and the additional expense necessitated by the large number of requests received for contract investigations, the Committee recommends that an additional assessment of one-half mill per barrel be made, the same to be due with the regular dues for the last quarter of this year."

* * * * *

"Mr. Hulsart: I have already spoken to a number of the members relative to the report which shows the commitments of each company by states. This has always been prepared and issued in connection with the printed contract report which is printed this year once every three months; consequently, the report is issued once in three months. One member has asked me whether it can be issued every month. It can, if the member companies will report on all contracts whether they have shipped on them or not. If the report is of value to the members, we can get it out.

"The President: How many of the member companies would want this information every month?

"Mr. Cope: I don't see the value of it. I should like to have some one tell us the real value of getting out this report every month.

"Mr. Dutton: Our real object is to see the commitments of all manufacturers. If this report is of value if issued every three months, I think it is of value if issued every month.

[fol. 1188] "Mr. Cope: Is this by states?

"Mr. Hulsart: Yes, by states.

"Mr. Cope: Would it be all right if it were not divided into states?

"Mr. Dutton: I do not think it is necessary to have it divided into states.

"Mr. Hulsart: That would still necessitate the member companies submitting once a month their unshipped balances on every contract whether they have shipped on the contract or not.

"Mr. Cope: We do that.

"Mr. Hulsart: Some of the companies do not.

"Mr. Dutton: Isn't it the custom to report on contracts that have been active during the current months?

"Mr. Hulsart: The practice is to report only on those contracts on which shipments have been made. I do not know how the records are kept in the various companies' offices. For some it would be easy to make the report and for some it might not.

"Mr. Dutton: I think it would be just as easy. With very little additional work, you can get the total by states.

"Mr. Hulsart: If the companies submit their reports by states.

"Mr. Cope: I am in favor of it for one. I make a motion that we adopt Mr. Dutton's suggestion that we have this statement given out monthly instead of every three months showing commitments of each cement company as of the first of the month.

[fol. 1189] "The President: You have heard Mr. Cope's motion that the member companies report their total commitments by states each month and that the report be gotten out by the Association once a month instead of once every three months.

"Mr. Moyer: I do not think that at the present time the report is of sufficient value, due to the extraordinary conditions of the cement market, for the member companies or the Association to undertake this additional work. We are already short of help. I do not believe we ought to abandon the report. I think we ought to carry on the statistical information as we have in the past and when we get to the time when we need it every month then we can have the report made out that way.

"Mr. Burch: I heartily approve of that.

"The President: All those in favor of having the report made up every month, kindly rise.

"Three members rose and the President declared the motion lost.

"Mr. Hulsart: Following the constitutional provision that notices must be sent out five days before the meeting, we have been sending

notices accordingly. It would be just as easy to send them out earlier. Unless there is some objection, we shall send them out a full week ahead in the future. There has been objection to the short notice.

"The President: Is there any new business to come before the meeting? If not, a motion to adjourn is in order.

"Mr. Smith: I so move. I'd like to get in the record. I am not here very often.

"Motion seconded and carried."

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[fol. 1190]

Govt. Ex. No. 177

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the home office of the Association, room 502, Berkeley Building, 19 West 44th Street, New York City, at 12:20 P. M., Thursday, October 21, 1920.

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[fol. 1191] "Mr. Lober: I think most of the members of the present committee feel that the present favorable conditions with respect to collections are not going to continue indefinitely and we may find in the course of some months, or during the next season, a very much worse situation with regard to failures than we have had for several years. I have not seen many of the present members for some time. I have been away myself or they have been away. However, from the reports that are being given out now by the authorized agencies, it would seem as if the failures had started to increase. Of course, you can take care of that yourself by using greater care in extending your credits; or you can insure. The Credit Committee had an interview with one of the members of one of the Credit Indemnity Companies, which must have been six or eight months ago, and we got some information in regard to the conditions for the use of the members, but I do not know that anyone has taken advantage of it. Personally (and I think the members of the committee agree with me), I think that our company can do it much cheaper—that is, take care of our credits—than have the indemnity companies take care of it.

"Mr. Erdell: I think most companies felt that way at that time, but it might be possible for the Credit Committee to get together and urge something again in the way of some improvement.

"Mr. Goode: Mr. Lober, have they given any thought to the method [fol. 1192] employed by the Midwest Credit Committee?

"Mr. Lober: You mean the report—

"Mr. Goode: The information given to members. I have heard favorable reports concerning it.

"Mr. Lober: The opinion expressed here in the Association, generally, was that that was not within our scope. The thing they had was almost a credit reporting agency. We are simply informative in every way and there is some objection made to our entering on any such program as that for that very reason. That is, we inform of conditions, but we do not report on standing or anything of that sort. Those that are habitually 'slow pay' you can find out from the list. You know pretty well who sells all these different people and the Credit Committee felt and I think a number of members of the Association felt that if you wanted any further information you could get it from the regular channels. There was quite some objection raised to the thing when it was proposed."

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"Mr. Hulsart: It has been suggested that the work of contract investigation has been so heavy this year that a few words covering this work might be of interest.

"During August we received 500 requests for the investigation [fol. 1193] of contracts. This threw us very far behind and necessitated the employment of two temporary auditors. At the end of August we had 436 uninvestigated requests. Today this has been reduced to 180 uninvestigated requests, which is about two weeks' work.

"Of the contracts investigated during the first four months of this year, the average was one hundred per month or a little less than twenty-six per auditor per month. This has been increased to 297 in September or fifty-four per auditor per month. So far during the month of October, 234 contracts have been investigated. Considerably over three hundred will be investigated during the whole month, making about the same average per auditor per month.

"A total of 1,838 contracts have been investigated so far this year. For purposes of comparison, there is noted the number of investigations made during the last six months of 1918 and during the year 1919. During the last six months of 1918, 483 contracts were investigated. During all of 1919, 716 were investigated. This made an average for the last half of 1918 of 80 per month or 27 per auditor—and for the year 1919 an average of 59 per month or 20 per auditor per month. Of course, during those years there was not the necessity for haste and such hard work on the part of the auditors as there has been this year. Personally I appreciate very much the way that the auditors have realized this necessity and have gone to it. As a result they have increased the average from 20 per month per auditor to 54 per month per auditor.

[fol. 1194] "The cost of these investigations, including the auditors' salary and expenses, during 1919 was \$13.85 per contract. This has been gradually reduced to a cost of \$7.40 per contract investigated during the month of September.

"The 1,838 investigations made so far this year have shown over-estimates amounting to 2,152,000 barrels. Applying this propor-

tionately to a conservative estimate of the number of investigations that will be made during the rest of the year would show over-estimates of 3,000,000 barrels for the year."

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"Mr. Hulsart: * * * Another matter: We have here on the wall the beginning of a Hall of Fame. It is still incomplete. We are waiting for a photograph of Mr. Dutton and it might not be out of place if Mr. Dutton received the instructions of the Association in that connection.

"Mr. Burch: I desire to make a motion. I move that Miss Phalen be appointed a committee of one to ask Mr. Dutton for his picture and if she gets it from him to turn it over to us.

"Miss Phalen: I have already made a strong appeal and I have yet to get satisfaction.

"Mr. Naylor: I second that motion.

"Motion passed.

"Mr. Hulsart: In further connection with our photographs, it has been suggested (Miss Phalen made the suggestion) that a photograph of Mr. Gaines, who was manager of the Association for three years, be included in the collection.

"Mr. Burch: Mr. Gaines will be glad to know that Miss Phalen made the suggestion." (Laughter.)

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"Mr. Twamley: Is there anything being done toward publishing new freight rate books?

"Mr. Erdell: Not so far as I know. I think Mr. Hulsart might give us some information concerning that matter.

"Mr. Hulsart: I have discussed that with some of the traffic men. It was their view that if they were published at the present time, they would only have to be republished shortly on account of the probability of many changes to be made by the railroads in their new schedules. Some of the railroads have not yet published their specific rates, so it is the view of the transportation men that we might continue to use the old freight rate books in connection with the table of corrections that was furnished to each company and that new freight rates should be published early next year after all of the railroads have filed their specific rates."

[fol. 1195]

Govt. Ex. No. 178

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the Home Office of the Association, Room 502, Berkeley Building, 19 West 44th Street, New York City, at 12 Noon, Thursday, November 18, 1920.

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"Mr. Hulsart: Just a word to bring my report of last month up to date. I reported last month that there would probably be 312 contracts investigated in October. There were actually 318 making [fol. 1196] a total for the year to October 31st, of 1,922. So far in November there have been investigated 137 contracts, making a total to date of 2,059 contracts investigated, which have shown over estimates of approximately 2,400,000 barrels. There have been 264 requests received so far this month for investigation. We have on hand at present 288 requests to be investigated, so the work of investigation is keeping up. The requests for investigation on file represent about one month's work, or a little less. I expect that the number of requests will now fall off very rapidly, so we will lay off two auditors this month, having taken on two temporary auditors two months ago."

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"The statistical work has proceeded as usual. The work covers the receipt and filing of data from member companies; the posting and compilation of this data and the preparation of the forms on which statistics are forwarded to member companies. You will all appreciate that this involves considerable office work. Miss Phalen now has six girls, which is one short, of whom three work the larger part of their time on the preparation of reports of contract investigation; the other three entirely on statistics."

* * * * *

"I have been going through the minutes of the last five (5) years [fol. 1197] and indexing them. We will finish this index and issue it. It may be of some use to the members. The question has come up also as to binding the minutes. If the member companies wish their minutes bound, we can arrange in this office to have it done. I should like to have our own copies bound; at least a personal copy bound. In that bound form, it has been suggested that we might include a brief summary of the history leading up to the formation of this association. I talked to Mr. Cox and he sees no objection to it. I find that the minutes of the Organization Meeting start right out without leading up to the organization of this association."

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"Miss Phalen: Gentlemen, apropos of our discussion last month regarding additions to our picture gallery, I wrote to Mr. Gaines, and have his letter in reply:

"Read the following letter:

"November 4, 1920.

"Miss M. B. Phalen, Secretary Cement Manufacturers' Protective Association, 19 West 44th Street, New York.

"MY DEAR MISS PHALEN: When I get time and can find a photographer that will take a chance, I will be very glad, indeed,

[fol. 1198] to furnish a photograph for the 'Rogues' Gallery,' and you may tell the members that I appreciate very deeply the honor that has been conferred.

"With kindest regards to every one, I beg to remain,
"Yours sincerely, (Signed) H. S. Gaines."

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"Mr. Hulsart: In regard to the Freight Rate books, I believe that the roads have not furnished all their schedules and it seems to me it would be wise to wait until all these schedules are in before printing the Freight Rate Books. I would like to have the views of the members in regard to that.

"In this connection, Mr. President, we have received data for the New England Freight Rate Book, which has been computed by three of the companies, but it is based largely on the old rates, plus 40 per cent. increase, which is the same the members are now using. They have the old Freight Rate Books and apply the corrections."

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"Mr. Hulsart: There is an announcement I would like to make, Mr. President, of the interview I had with the representative of the Lockwood, commonly known as the Untermeyer Committee. The first interview of ten days ago was with Mr. McDermott, representing that committee, who wished to know what our Constitution and By-laws were, and what our activities were. I gave him copies of our Constitution and By-laws, all of our forms, and went over in considerable detail everything we are doing, and all the statistics, contract investigations, and all of our activities. He took all this matter with him to study over and I didn't hear anything further from him until yesterday, at which time he stopped in and wanted a further explanation of two or three things. There was nothing that he said indicated whether their interest in the Association will continue or not. He seemed personally to be quite satisfied with the explanation of our activities."

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[fol. 1199]

Govt. Ex. No. 179

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the Home Office of the Association, Room 502, Berkeley Building, 19 West 44th Street, New York City, at 11:30 A. M., Tuesday, December 14, 1920.

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"Mr. Hulsart: May I speak about the New England freight rates? It was decided at the last meeting not to print them at this time.

Since then, the gentlemen compiling the freight rates have been working in this office, and have completed the freight rates for the new England States. One of the member companies this morning, and others at other times, have expressed a desire to get these freight rates. Of the data just completed for the New England States, about 40 per cent of the points are based on specific schedules filed by [fol. 1200] the railroads, and about 60 per cent of the rates are based on the old rates, plus the 40 per cent increase, so that if these books were printed in the near future, about 60 per cent of the points would have to be corrected in the course of the next three or four months. I bring it up again, even though it was decided at the last meeting, because it has been mentioned by some of the member companies.

"The President: I do not see how the Association can do anything on freight rates at the present time.

"Mr. Lober: It will only waste money to do it.

"Mr. Hulsart: It is an expensive thing to print this book.

"Mr. Lober: You will either do it again, or have a mass of corrections in the books, something like the Virginia book before. It was an awful mess.

"Mr. Goode: We all want those books as soon as we can get them.

"Mr. Lober: Isn't there a possibility that there will be a new change in the New England rates? They may get some new revenue which will change the situation again. The situation is there, as I understand it, they are claiming they are not able to get through on what they have.

"Mr. Erdell: Why not bring it up from meeting to meeting as they come along?

"Mr. Lober: Let us lay it on the table and then talk about it whenever we want in the future.

"Mr. Hulsart: In this connection, the member company who [fol. 1201] brought this up today, stated that the old rates corrected by the table which was sent out from this office gives incorrect rates in some instances. If the member companies will send a memorandum of such instances that they find, we will cover it by a mimeograph notice to all companies.

"Mr. Goode: There seems to be some talk about the old rate of 75 cents.

"Mr. Hulsart: A memorandum of any such instance would be immediately followed by notice to all companies calling it to their attention.

"Mr. Twamley: I would like to ask Mr. Hulsart why he assumes that 60 per cent of these rates will have to be corrected, being the ones of which you have not yet received the schedule compiled by the railroads. Why do you assume that these rates will have to be corrected?

"Mr. Hulsart: The rates for about 40 per cent of the points are based on specific schedules filed by the roads, made out on a hundred-pound basis; while the rates for about 60 per cent of the points are based on either the old schedules plus the 40 per cent increase,

or specific schedules that have been filed based on a per-ton basis. In either of these two cases, when either the specific schedules are filed, or the per-ton basis changed to hundred-pound basis, it will involve changes in rates affecting those points.

"Mr. Goode: I move that the question of freight rates be laid on the table until our next meeting.

"Mr. Erdell: I second the motion.

"Motion passed."

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[fol. 1202]

GOVT. EX. NO. 180

Meeting of the Credit Men of the Cement Manufacturers' Protective Association Held at the Biltmore Hotel, New York City, on December 14, 1920

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"Mr. Tirie: I find it in our case, a great many of our dealers have complained of excessive stocks of feed, bought at high prices, and the prices have now fallen; it has slumped almost as much as cotton, wool and other things.

"Mr. Lober: Grains have gone down at a great rate.

"Mr. Tirie: I think there is just as much danger among country dealers as we find among certain other industries.

"Mr. Hilles: It comes back to Jiggins' letter, there lies the key to the whole situation, and if we would only act upon that letter, that suggestion of his, of never shipping a car of cement to a dealer, being able to say no when we have the information in our hands [fol. 1203] that that dealer owes another cement company right alongside, for cement bought over thirty days ago. I have just been checking up, while we have not had any trouble in the past, I found five this morning; I am writing five letters to you gentlemen here asking for your experience. If he owes me, and he owes you, and he owes that fellow, this man is automatically, with the writing of that letter, marked 'no credit' on that day. The minute that letter goes out, it determines 'no credit.' The salesman is advised by dictating that letter. The two processes naturally follow. My list is none too good. I have about sixty or seventy with four months' old stuff, and most of mine is with country dealers. But nevertheless during the three or four months when we were shipping that cement, these fellows did not owe anybody else any money. When this spring season opens, I want to be very careful as to whom I ship cement. I want to try to get myself to say absolutely no, no matter how badly he wants me to ship cement. If a fellow will write me I will tell him everything, what my experience is.

"Mr. Lober: I have had some little experience where names have come up to my attention, whom I knew either from reports of the sales department or from the list of cards that I have on file in the

office, that other companies were interested in. Whenever I have written to the credit manager of the concern which I knew was interested, I have received the most prompt and courteous attention [fol. 1204] to my inquiry. That is the one thing I want to say for this organization. I have had every co-operation when I have asked for information when I wanted it or needed it. I hope that when anybody writes to me they will get the same thing.

"Mr. Hulsart: May I comment briefly on Mr. Jiggins' letter, especially that portion in which he refers to a dealer transferring his affections from one company to another, and the desirability of knowing with what cement companies that dealer has previously done business. I simply want to invite your attention to a matter which you may all have thoroughly in mind, and that is, the credit system and files as used by the Mid-west Statistical Bureau would be able to furnish any inquirer at once with a list of every cement company that that dealer had dealt with for a number of years past. Our credit bureau and files is unable to furnish that information. The only way that we could make our files of equal value to those of the Midwest Statistical Bureau, would be to receive from the members for a few years back, perhaps a very few years, simply a list of all dealers which have been customers of theirs. That would be confidential information in the Association office, excepting if you inquire of John Jones, dealer, as to what cement companies he had dealt with, we would be able to furnish by telephone or return mail a list of those cement companies which John Jones had purchased cement from for such a period of years as you consider advisable to furnish information for to start our files. There are other ramifications [fol. 1205] and extensions that could be made of our credit system to make it still more valuable. But that one particular feature is suggested to you by Mr. Jiggins' letter, and in talking to Mr. Kaiser, manager of the Midwest Statistical Bureau—

"Mr. Lober: I had hoped that Mr. Kaiser would come in; he was around.

"Mr. Hulsart: He told me that their credit files is no doubt the most valuable feature of their association. It is made constant use of. So much so, that they keep a couple of clerks doing nothing else than handling the mail involved. On the other hand, during this year, 1920, we have not had one single inquiry to the Protective Association, not one for such information as we have on file.

"Mr. Lober: We have in our files—they are only the names of the customers of the various companies whose accounts have become sixty days old or over, or have given notes or trade acceptances, or whose accounts have been placed with an attorney.

"Mr. Christ: You mean in the Association files?

"Mr. Hulsart: Yes, we have that.

"Mr. Lober: They have separate cards that have all those names. That information we could give.

"Mr. Hulsart: We could furnish that at any time.

"Mr. Lober: That does not take in the man who has never gone beyond sixty days in paying his accounts, and never will be there.

[fol. 1206] "Mr. Hulsart: We have a card for every dealer who has ever been delinquent and we have a record on that card of every delinquency. We can furnish that upon inquiry. If the companies consider it wise to furnish us a list of those dealers——

"Mr. Lober: You want customers, too.

"Mr. Hulsart: Dealers, contractors, and customers, that you did business with in 1919 and 1920. We could get that on the same cards, then if you want such information, we could tell you that John Jones during 1919 and 1920 purchased cement from the following companies, and was delinquent on certain occasions to certain amounts."

* * * * *

"Mr. Lober: What I would like to suggest. I do not know whether this meeting can take any action. It is simply an informal meeting of the credit managers, and I suppose any action would have to come up at a regular meeting of the association and to be put in a formal motion for approval.

"Mr. Hulsart: It would come in the form of a report of your department, and to report to the association.

"Mr. Lober: When will be the next meeting?

"Mr. Hulsart: The third Thursday in January. Your report could be submitted.

"Mr. Lober: What I think I would probably do would be to write you in the form of a letter, calling attention to this particular item and asking that it be submitted to you for action. The only report [fol. 1207] I would have to make would be simply this. It will be there on record that statement of what we discuss here, and there was that one particular item which was requested to be put up to the Association for disposition. If any others come up before we get through, they can be added.

"Gentlemen, if it is your pleasure that the credit committee include in its report a recommendation that Major Hulsart's suggestion be adopted, I suppose, possibly, we should have a motion to the effect that the chairman of the credit committee be instructed to transmit that to the Association in the form of a recommendation for their action at the next meeting.

"Mr. Shepherd: I would like to make such a motion.

"Mr. Polhemus: I second the motion.

"Motion carried."

* * * * *

"Mr. Lober: I think if I had an account that had not reached sixty days, and I had to shut off shipments, I would feel that I ought to make some report.

"Mr. Polhemus: I left it to the bookkeeper and he did not report to me until the report had gone in.

"Mr. Hulsart: Couldn't we enter in parenthesis, some explanation over the man's name?

"Mr. Tiree: We could do it. But wouldn't it be just as effective if

we showed it a sixty day account? That is the thing we want to know.

[fol. 1208] "Mr. Hulsart: In other words, it is practically a sixty day account.

"Mr. Tiree: Yes. It is not so much the sixty days, as we want to find those delinquents. If we have reason to know that such and such a party is going to be delinquent for the sixty days, and we shut off shipments to him, it seems to me entirely proper for us to put that on, and include it under the sixty days.

"Mr. Hulsart: I simply referred to the mechanics of getting up the report, in case you want to get it in we can do so.

"Mr. Lober: You would have to send out a circular to all of the credit managers describing that case.

"Mr. Christ: And over against that you have accounts of three or four months and you don't hold up shipments. Why not make some parenthetical explanation in a condition of that kind.

"Mr. Hulsart: That is entirely up to you, gentlemen.

"Mr. Shepherd: I don't think, if I had a case like that, I would make any notation on the report. I would simply report it as a sixty day account, because this report must be out of our hands by the fifth of the month. It is practically a sixty day case by that time.

"Mr. Christ: My point was, with this additional condition, to discontinue shipments.

"Mr. Lober: I question whether it would be a wise thing to do, to state we have discontinued shipments because of the possible construction that might be put on it outside.

[fol. 1209] "Mr. Hulsart: Mr. Cox might have something to say about that.

"Mr. Lober: I don't want anybody to get the impression that we are publishing a black-list. We are not. We want to have all the information we can get, and yet we must always keep in mind the plan and the scope of the Association as expressed in the draft of the purposes which were printed at the beginning of the first minutes and the constitution and by-laws, that every company member is absolutely free to conduct his business as he pleases. That there is no understanding or anything else that this list is handed out and means that you are going to stop shipments to these people. It is up to what you want to do with it, when you get the list. It is up to you. But where a case of that kind occurs, there ought to be some way of our knowing that that credit is under suspicion by the member company, and then it is up to us to judge what we want to do if that person applies to us for credit."

* * * * *

"Mr. Lober: The only point that we have is the point that Mr. Polhemus brought up.

"Mr. Shepherd: That is an exceptional case, of course.

"Mr. Lober: I don't know whether we might not be making some request of our members to make a special report. I don't know whether Mr. Cox would approve of it. Mr. Hulsart, will you submit that report to Mr. Cox?

"Mr. Hulsart: Yes, I would be very glad. We may show such a thing on our report.

"Mr. Lober: Yes, without getting any idea that we are getting up a black-list or anything of that sort. We don't want that. We are not trying to do that. We don't want to do it and don't want to give any impression that we are doing it. Submit that to Mr. Cox, and ask him what he thinks. I think that will be the best thing to do with it."

* * * * *

[fol. 1210]

Govt. Ex. No. 181

Annual Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the Home Office of the Association, Room 502, Berkeley Building, 19 West 44th Street, New York City, at 12 o'clock noon, Thursday, January 20, 1921.

* * * * *

"Mr. Burch: I have a correction to make in the text. I will just read a letter: 'I have read the report of the minutes of the meeting of the Association held December 14th, and on page 11 I notice the statement by me as incorrectly reported. As it is given it reads: 'Personally I believe that the functions of this Association include the reporting of cement contracts taken from trade warehouses.' What I said was that: 'Personally I do not believe that the functions [fol. 1211] of this Association include the reporting of cement contracts taken for warehouse trade'.

"The President: The correction will be made.

"Are there any other corrections? If not, the minutes will be adopted and printed accordingly.

"Are there any candidates for new membership?

"Mr. Hulsart: No applications.

"The President: In the absence of Mr. Lober I will ask Mr. Hulsart to read the report of the Credit Committee, which was forwarded to him by Mr. Lober.

"Mr. Hulsart then read the report of January 4th from Mr. Lober, as follows:

"At the meeting of a number of the credit managers held in New York, on Tuesday, December 14th, several matters affecting credit conditions in the cement industry were discussed, and the Chairman was instructed to submit the following to the Association at its next meeting for such action as they might think proper to take.

"1. It was suggested that it would be desirable to have on file in the Association office a complete list of the customers of all member companies for at least the year 1919 and 1920—this list to be kept

up to date by furnishing the Association at stated intervals, say monthly, the names of new customers secured—the object being to make it possible for member companies by application to the Association office, by mail, telephone or telegraph, to secure prompt and full information as to from what other member companies any ap-[fol. 1212] plicants for credit had been purchased in the past.

“Under our present system we have only information on these lines in regard to purchasers of cement whose accounts have not been paid within sixty days, or who have given notes or trade acceptances in settlement, or whose accounts have been placed in attorneys’ hands for collection.

“It was felt that this additional information would be worth the extra trouble it would take to secure it, as it would furnish an easy and quick method of obtaining detailed information about those purchasers of cement whose names have not and do not now appear on our lists. In many cases, the credit departments of member companies wish to have this information. It would thus round out and complete our present credit protective statement without going into the credit informative branch in any way.

“The Chairman understands from Major Hulsart that this suggestion has been submitted to Mr. Cox and there is no objection to our adopting it if we so desire. The discussion with reference to this matter will be found in the minutes of meeting of December 14th, pages 27 to 36.

“It was suggested that if this plan is adopted member companies be asked in reporting the names of all those to whom they have sold during 1919 and 1920, and in any portion of 1921 which may have elapsed up to the time the report is made, a notation of any [fol. 1213] changes in the names of individuals, firms or corporations be made where any have occurred. This to be done so far as the records of member companies will permit. By this is meant that if, for instance, one individual has sold out to another, or his business has been incorporated under a new name, in reporting the new name a notation should be made that it was formerly —.

“2. One credit manager present brought up a case of one of his customers to whom shipments had been discontinued for reasons which he considered good and sufficient, but whose account had not quite reached sixty days at the time the monthly list was sent in. Therefore, under our practice of reporting unpaid accounts this account was not reported. His attention was called to the matter after the report had been sent in by the man in his office who made out the report.

“He stated that he felt the other members were entitled to know that his company had discontinued shipments, but that he was at a loss for a way to report the name, as it did not come under any of the headings provided, and he believed that there should be some method of including such cases as this in the report as a proper measure of precaution to our members, and the Chairman was instructed to include a statement of the circumstances in his next report to the Association, with the request that they be considered

and a plan for taking care of any future instances be arrived at. Also, that the matter be submitted to Mr. Cox for his review and [fol. 1214] report, which the Chairman assumes Major Hulsart will be able to present at the same time as this report.' "

* * * * *

“(Signed) W. D. Lober, Chairman, Committee on Credits.”

“Mr. Hulsart: This was submitted to Mr. Cox by letter, and I will now read Mr. Cox’s answer to that, dated January 12th:

“Referring to the letter from Mr. Lober, Chairman of the Committee on Credits, which I am returning herewith enclosed, I beg to advise that action on the suggestions therein contained be deferred for, say, a month or so, not because there is anything objectionable in the suggestions, but simply because there are numerous people trying to get a picture of the Association just now, and during that process any movement, however harmless in itself, is apt to obscure more or less the outline. The most important thing at present is to get the workings of the Association clearly understood by those who are looking into them. Any additional activity, however trifling, at this time, might interfere with that more or less, and it seems to me desirable not to interfere with it at all.

“It is pretty difficult to justify this advice by imagining any concrete contortion of these particular suggestions, which in themselves contemplate simply protective credit information. It seems almost impossible to imagine anyone contorting either suggestion [fol. 1215] into anything criticizable. But it is possible to imagine that one seeking to define the activities of the Association might be disturbed, or perhaps made less sure concerning his conclusions by any modification or addition whatsoever.

“In brief, simply on the theory that it is not desirable to move when one is having one’s picture taken, I suggest deferring action on these suggestions.

“Yours very truly, Archibald Cox.”

“The President: You have heard Mr. Lober’s report and Mr. Cox’s recommendations. What is your pleasure?

“Mr. Twamley: I move that the matter be laid on the table.

“Motion seconded.

“The President: You have all heard the motion. All in favor will say, Aye.

“Motion carried.”

* * * * *

“The President: At the last meeting the question was brought up by one of the member companies in regard to reporting contracts with dealers for warehouse business, and the matter was taken up with Mr. Cox, whose reply Mr. Hulsart will read.

“Mr. Hulsart: I wrote to Mr. Cox asking for his opinion on whether the reporting of contracts for warehouse trade was within

[fol. 1216] our scope. Mr. Cox's reply, dated January 11th, is as follows:

"Mr. Hulsart then read the letter of Mr. Cox, as follows:

"Referring to your favor of the 6th instant, I beg to say that the contracts to be reported are limited to those which are both (1) closed transactions, in the sense that the contract has been made, and (2) specific job contracts, meaning thereby contracts to supply the cement for particular work.

"That was the understanding at the time the Association was formed, and it has, I understand, been its practice since. The passages from the constitution and by-laws quoted in the minutes contemplate only such contracts. Contracts with dealers for warehouse trade did not, I understand, exist to any considerable extent at the time the Association was formed, but are a recent development. For the Association to deal with them would require a modification, or at least a new construction, of the constitution and by-laws. It does not seem to me that a change at this time is desirable.

"Strictly, the desirability of a change to include in the reports contracts other than specific job contracts is not now presented for consideration, because, parliamentarily, action looking to amendment of the by-laws would be necessary to raise the question. But there can be no great harm in pointing out that it would represent an overstepping, or at least a considerable stretching, of the limitations of the Association's activities. The reporting part of the Association's work was strictly confined within narrow limits, upon the theory that reporting of the kind practiced by many so-called 'open price' associations might be objectionable. Except in one inconsequential detail, to which I shall refer, the Association has nothing in common with Associations of that kind.

"The cement industry at the time the Association was formed presented one peculiar feature, namely, it was customary for the manufacturer to enter into contracts to deliver the cement required for specific work long before the cement would be required. By reason of the nature of the product, its bulk, lack of storage facilities, carrying charges, etc., that meant contracts to deliver cement which would be manufactured, not at the time of the contract, but sometime in the future near the time of delivery, when the cost of manufacture might be materially different. Moreover, such contracts, while in form mutual obligations, were in practical operation nothing but options, because a manufacturer contemplating suit on such a contract is confronted by the probability that the dealer would be financially unable to meet a judgment and certainly transfer his business to a competing manufacturer. To a serious extent, such contracts operated simply as means whereby dealers speculated in cement at the cost of the manufacturer, and, to an even greater extent, left the manufacturer uncertain as to what he might be called on to deliver.

[fol. 1218] "These specific job contracts of a cement manufacturer were commonly scattered through different parts of the country, and the contracts were not of record, so that it was practically impossible

for any single manufacturer to ascertain to what extent his contracts of this kind were reliable and would result in calls for the cement.

"These peculiarities led to this part of the work of the Association. Specific job contracts are reported in order that the manufacturer can ascertain whether he will be called upon to deliver the cement for a specific job or has merely a duplication of a contract for that cement which has been contracted for by another. That is, of course, entirely different in purpose and result from the kind of reporting which is done in so-called "open-price" associations. The reporting here is limited to specific job contracts which have been closed. It does not touch other sales of cement or current business. An inspection of the files which you recently made showed that information concerning one manufacturer's specific job contract did not reach other manufacturers on an average earlier than about eight days after the transaction was closed. In view of the thorough way in which the cement manufacturers' salesmen and dealers cover the country and their competitive zeal, it is, of course, ridiculous to think of this as having any effect whatever on competition, or any such effect as some of the practices of "open-price" associations may (or may not) have. The reporting here has a real purpose and effect, namely, to let the manufacturer know which of his own contracts [fol. 1219] are reliable and thus enable him to protect himself against being cheated by dealers speculating at his expense, failing to sell the cement he makes and damage in other directions. The investigations of these specific job contracts which the Association makes are, of course, simply an additional instrumentality to the same end.

"I mentioned one inconsequential detail wherein the work of the Association has something in common with "open-price" associations. That is in the fact that in reporting closed specific job contracts we include the price with the other details. This is referred to in the outline of the plan for the Association as follows: "In the following plan, it is not proposed to provide the fullest relief against such misrepresentations, because reports of outstanding or active offers or quotations may be objectionable, but it is proposed to give the manufacturer an opportunity of checking the representations of dealers and salesmen by including with the information as to specific contracts the price at which these past transactions have been closed, so that false statements may become less frequent." That is, I think, the only point at which the work of the Association is based upon the considerations which are usually urged as "open-price" associations, and those considerations seem plainly applied within such a limited field as not to afford room for the application of other considerations which perhaps make some practices of "open-price" associations objectionable.

[fol. 1220] "When I suggest that these limitations of the Association's reporting be strictly observed at present, I have in mind, among other things, the fact that the Supreme Court of the United States will presumably hand down an opinion expounding the law as to "open-price" activities before very long, in the case argued before it some weeks ago. For that and other reasons it seems to me desirable

to do nothing about extending the reporting to contracts other than specific job contracts at present.

"'Yours very truly, Archibald Cox.'"

[fol. 1221] "The President: I think that we should be governed by Mr. Cox's letter and only report on specific jobs.

"Mr. Hulsart: Mr. President, I have been requested by a member company to mention briefly a matter concerning the misuse of Association reports. The circumstances are these: The sales office of one of the cement companies in communicating with a dealer soliciting his trade referred in that letter to one of the Association reports, mentioning that he had seen in that report that this dealer was then placing contracts with another company. I have seen this correspondence, so it is not hearsay, and I am simply recounting the circumstances at the request of the member company for your information.

"The President: I think that is something that is really very serious and should be taken up by men higher up in the company, as it really works against what this Association's intention is.

"Mr. Naylor: All of these statistics are supposed to be confidential, are they not?

"The President: I do not think that they are necessarily confidential.

[fol. 1222] "Mr. Naylor: I mean that they are confidential as among the manufacturers; not to be given out to customers."

* * * * *

"Mr. Ackerman: Miss Phalen and Gentlemen: The honorable office of Treasurer seems to be about the only one that should not fail—I do not mean to say that all the other officers are not honorable, but the one of Treasurer is a very high class one and enjoys a unique position in the fact that it pays a salary and there is not very much for the Treasurer to do. As you all know, the accounts are kept by Mr. Woodruff, who is a certified public accountant, and I might add, to save confusion, that he gets the emoluments. The work must have been done well or we would not have been renominated. It could not have been otherwise, because we have always received the kindest consideration from the personnel of this office, and it is my hope, or our hope, that notwithstanding investigations and rumors of investigations, that at the next annual meeting we may be all up here and wish each other a very happy and prosperous New Year. Thank you."

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Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the Home Office of the Association, Room 502, Berkeley Building, 19 West 44th Street, New York City, at 12 M., Thursday, February 17, 1921.

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[fol. 1224] "Mr. Hulsart: The requests for investigation of contracts naturally are rather few at the present time, and are pretty well up to date.

"The preparation of the new freight rate books is well in hand. We have in this office the proof of the New Jersey Book, and will have within a few days the proof of the New England Book. The New York Book is in the hands of the printer, and should be issued in the course of ten days or two weeks. Data is being prepared for the freight rate books in the other states.

"As directed by the last meeting of the Association, a copy of the decision of the Supreme Court of Pennsylvania, giving material companies the right to sue surety companies on the bond for road work, was issued from this office.

"Here is a matter which covers nothing new. It is a chart to show current business and for the purpose merely of keeping the annual report up to date. (Mr. Hulsart distributed the copies to the members.)"

* * * * *

[fol. 1225] "For purposes of comparison with any previous year or any previous month, reference may be made to charts I and III of the annual report.

"The current months, that is, the months for 1921, are shown in the heavy plotting. This, of course, is not of so much interest, with only one month of 1921 plotted. If it is of any interest at all, it should be of more interest as we get along in the year, when there will be several months of 1921 plotted in comparison with this average for six years.

"This can be issued for less than three dollars a month, and if the Association considers it worth while in continuation of the annual report, and in picturing our current tables, it could be very easily gotten out in this office."

* * * * *

"Mr. Hulsart: Is it the consensus of the meeting that this chart should be issued?

"Mr. Goode: I move that the Vice-President be ordered to get these out in accordance with this plan.

"Mr. Twamley: I second the motion.

"Motion carried."

* * * * *

"Mr. Hilles: I am reminded by the printed statement of the decision of the Supreme Court of the State of Pennsylvania, that in New York State there is a movement on foot by producers of build-[fol. 1226] ing material, who ship into New York State, to have passed a bond law at this session of the legislature which would require all contractors on public work under the State Highway Commission, the Barge Canal Commission, and the Department of Public Works (which includes the State Architect's office), to force the contractor to give a definite, specific bond from 50 up to 100 per cent of the amount of the contract, providing that he must pay for the material furnished, and that the seller shall have the right to sue under the bond without notice to the State or permission by the State.

"This is not strictly an association matter under our constitution and by-laws, but it might be of great interest to a number of the members present. I would be very glad after the meeting is over to explain just exactly what the situation is, and what would be required of any members of this association who might care to assist, and what would be the probable cost of watching the legislation at Albany.

"Mr. Dutton: Mr. Hilles, what is your present understanding in New Jersey in regard to the law?

"Mr. Hilles: In New Jersey every contractor on public work must file a bond for 100 per cent of the amount of the contract, giving the right to sue on the bond without permission from the State.

"Mr. Dutton: That is similar to the Pennsylvania bond."

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[fol. 1227]

Govt. Ex. No. 184

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the Home Office of the Association, Room 502, Berkeley Building, 19 West 44th Street, New York City, at 12 M., Thursday, April 21, 1921.

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[fol. 1228] "Mr. Hulsart: The work on the Freight Rate Books is progressing. The New England, New York and New Jersey books have all been issued. The Pennsylvania book is now being prepared for the printer and should go in the mail within three weeks or a month. The data is being compiled for the three remaining books, the Virginia book, the West Virginia and the book for Maryland, Delaware and the District of Columbia. This data will be checked and put in form for the printer as fast as it is received in this office.

"Relative to unshipped balance reports from the member companies, which now include all active contracts, whether shipments

have been made during the month or not, this office appreciates the co-operation of the members in this matter. The inclusion of all active contracts in the monthly unshipped balance report has enabled us to detect and correct errors and omissions and eliminate inactive contracts from our records. These had accumulated for the past few years to the number of several hundred, amounting to nearly a million barrels. We believe that all of the dead wood has been eliminated from the printed contract report of April 1st. This will go into the mails within a week or ten days. The delay has been necessary to completely check and revise the book to eliminate this accumulated dead wood and we hope that this issue will be 100 per cent correct. Our other statistics and summary tables based on our contract records will now be more accurate and complete. With this more complete monthly report of unshipped balances, we can now issue monthly, instead of quarterly, the report of total commitments of each company by States."

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[fols. 1229-1246]

Govt. Ex. No. 185

Regular Monthly Meeting of the Cement Manufacturers' Protective Association

Meeting held at the Home Office of the Association, Room 1703, Berkeley Building, 19 West 44th Street, New York City, at 12.15 P. M., Thursday, July 21, 1921.

* * * * *

"Mr. Hulsart: The Contract Committee recommends that in the case of one company shipping for another that both companies report the amount of the shipments and the name of the other company involved in the transaction, so that we have a record in this office of the company shipping the same and the company for whom it is shipped."

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[fol. 1246½]

Govt. Ex. No. 186

Oct. 18, 1919.

Giant Portland Cement Co., 610 Pennsylvania Bldg., Philadelphia.

Attention Mr. Griffith

GENTLEMEN: Referring to your kind favor of Aug. 20th covering contract #P-904, Felix G. Pittet, contractor:

Mr. Overman unfortunately called on Mr. Pittet yesterday to check up this contract. Mr. Pittet is highly insulted and wishes an apology from you or he will cancel the contract.

I think before you make any check-ups you had better take the matter up with us first and we will put you right. Mr. Pittet referred the young man to the writer and he said I had nothing to do with the matter. He also wished to know where each and every bag of cement was used, which Mr. Pittet claims was none of his business.

The National SD Co. has six plants in this city and they are continually making improvements, additions, etc., and we as well contend that it is no one's business how the cement is distributed among these plants.

The writer would therefore suggest that Mr. Griffith immediately write Mr. Pittet a letter of apology, explaining the situation otherwise we will lose his business. He is very much insulted, as above stated.

[fol. 1247] Kindly send us a copy of the letter you write to him. His address is Citizens' Trust Bldg., this city.

In the meantime kindly enter our order for a car of cement to be shipped any time during next week.

Consign same to our siding #1, Riverside station, N. Y. S. & W. R. R. Paterson, N. J., same as usual, and oblige

Very truly yours, ———, President. EMR. MW.

[fol. 1247½]

Govt. Ex. No. 187

Giant Portland Cement Company

603-610 Pennsylvania Building, 15th and Chestnut Streets, Philadelphia, Pennsylvania

October 20, 1919.

Mr. E. M. Rodrock, President E. M. Rodrock Company, Paterson, N. J.

MY DEAR ROD: I cannot tell you how surprised I am to receive your letter of the 18th, but assure you I appreciate very much indeed receiving same, and I can assure you that we have not in any way ever asked any one to check up Mr. Pittet or any of our other friends who have placed contracts with us. I understand that Mr. Overman is with the Cement Manufacturers Protective Association, and as all contracts are reported to them, they are checked up by the Association and not at the request of any Cement Company. I am therefore writing Mr. Pittet, as per enclosed, which I trust meets with your approval, as there is nothing I would dislike more than to have any ill feeling between Mr. Pittet, you or this Company, but I assure you that we are perfectly innocent in this matter. Therefore if this letter meets with your approval, kindly forward same to Mr. Pittet.

[fol. 1248] Want to thank you very much indeed for the order

for a car to be shipped to your Siding #1, as we need all the orders we can get at the present time.

With kindest regards,

Yours very truly, R. E. Griffith, Vice-President. N. Enc.

Oct. 21, 1919.

Giant Portland Cement Co., 610 Pennsylvania Bldg., Pennsylvania.

Attention of Mr. Griffith

DEAR MR. GRIFFITH: Your letter of the 20th duly received and I trust the explanation to Mr. Pittet will be satisfactory.

We talked with him over the phone this morning and I told him that we had a letter from you explaining the situation.

He is still considerably put out by the methods Mr. Overman used with him, not being diplomatic, but will report to you later how the matter works out.

Thanking you for your prompt attention to same, we remain

Very truly yours, ———, President, per ———.

EMR. MW.

[fol. 1249]

Govt. Ex. No. 189

Cement Manufacturers' Protective Association

19 West 44th Street, New York

File Giant P-904.

#2444.

Date: October 20, 1919.

DEAR SIR: The work covered by the following contract has been investigated and the facts as reported by the auditor are given below for your information:

"Giant P-904.

Purchaser.—E. M. Rodrock Co., Paterson, N. J. National Silk-Dyeing Company's Plant, Paterson, N. J. Contractor—F. G. Pettitt. 3,000 bbls., nothing shipped. Date of contract—August 25, 1919.

Mr. Pettitt does all construction work to be done at any of the five plants of the National Silk Dyeing Company.

Interview with Mr. Pettitt, who stated that he has contracted with the E. M. Rodrock Company for 3,000 bbls. covering the general requirements of all his jobs and not necessarily the work done at the National Silk Dyeing Company's plant, although included in the same. He further said that his work at the National Silk Dyeing Company's plants consists mainly of putting in new floors, foundations for machines; in general all work is practically recon-

[fol. 1249½] struction work. Mr. Pettitt estimates that this year he will use over 5,000 bbls. of cement at the plant of the National Silk Dyeing Company and that all cement contracted for herein covers the general requirements at the plants of National Silk Dyeing Company as well as any other work that may arise. He definitely stated that this contract covers general requirements, as he has no specific work on hand at any time but does work at different plants in Paterson, N. J. as such work arises. Date of audit—October 17, 1919."

Kindly advise us whether the foregoing accords with your information and as to the standing of this contract. Unless we hear from you to the contrary by — — —, this audit will be considered complete and so reported.

Cement Manufacturers' Protective Association, Per — — —.

(This form will be used by the Association when submitting information on an audited contract to the manufacturer having the contract for comparison with information in the possession of the manufacturer.)

[fol. 1250]

Govt. Ex. No. 190

Giant Portland Cement Company

603-610 Pennsylvania Building, 15th and Chestnut Streets, Philadelphia, Pennsylvania

October 20, 1919.

Mr. H. S. Gaines, Vice-President Cement Manufacturers Protective Assn., #19 West 44th Street, New York City, N. Y.

DEAR SIR: I am just in receipt of letter from E. M. Rodrock Company of Patterson, N. J., as per enclosed copy, and I would ask you to kindly look into this matter and advise me, as of course I do not want to lose the contract, but before doing anything in the matter I have put it squarely up to you.

With kind regards, and awaiting your reply,

Yours very truly, R. E. Griffith, Vice-President. N. Enc.

[fol. 1250½]

Govt. Ex. No. 191

Giant Portland Cement Company

603-610 Pennsylvania Building, 15th and Chestnut Streets, Philadelphia, Pennsylvania

October 25th, 1919.

Mr. Hayden Gaines, Vice Pres. Cement Mfg. Protective Assoc., 19 W. 44th St., New York City.

MY DEAR MR. GAINES: I enclose you herewith copy of letter from Mr. Rodrock, under date of October 24th. I think, in view of the acute condition this is in it would be better to drop the matter for a short time until I can see Mr. Rodrock, and I feel the best thing to do is to cancel the contract rather than stir this matter up owing to Mr. Pettit's stand in same, which might bring ill feeling between he and Mr. Rodrock. What are your thoughts in the matter?

Yours very truly, R. E. Griffith, Vice-President. REG/F.

[fol. 1251]

Govt. Ex. No. 192

October Twenty-seventh, Nineteen Nineteen.

Mr. R. E. Griffith, Vice President Giant Portland Cement Co., 603-610 Pennsylvania Building, Philadelphia, Pa.

MY DEAR MR. GRIFFITH: Have your letter of the 25th, relative to the Rodrock matter, and under the circumstances no doubt it would be best for you to handle this matter yourself.

I believe that if Mr. Rodrock and Mr. Pettit were familiar with the many difficulties that the cement industry has been subject to in the past and advised why it had been found necessary to investigate contracts, their sympathy could be enlisted with our work.

Yours very truly, — — —, Vice-President. HSG-G.

[fol. 1251½]

Govt. Ex. No. 193

August 10, 1920.

Mr. E. P. Comer, Boston, Mass.

Re Miscellaneous

DEAR SIR: Where you are accepting business at the \$3.50 mill net for prompt shipment would suggest that you refrain as much as possible from taking any business from these customers at the \$2.50 mill base, as it is only going to lead to an argument later on when they come back and tell us we are shipping their high price orders and leaving their other orders go. Furthermore with the con-

ditions as they are to-day we are not after any business at all that nets us \$2.50 at the mill.

Most of the cement manufacturers are practically out of cement and we want to conserve every barrel we have to get the highest price possible for it when the time comes. Regardless of what your customers may advise you, or what you may hear from other sources, the above information is a fact that cannot be contradicted. Therefore, I do not think it is a good policy on our part in order to secure business at \$3.50 at the mill to offer them cement at \$2.50. What we have taken at this price all right, but the stock of cement on hand among the manufacturers is going so low that we must curtail all sales that we possibly can that net us less than \$3.50 at the mill.

Very truly yours, Bath Portland Cement Co. ———
Second Vice President. WGD/H.

[fol. 1252]

GOVT. EX. No. 194

Bath Portland Cement Co.

Phila., Pa., August 12, 1920.

Re Price Instructions

DEAR SIR: We are now approaching the middle of August with conditions showing very little improvement. For that reason we have decided to curtail our orders as much as possible, otherwise we will be unable to catch up with our shipments.

Taking effect immediately, we are adjusting our prices to the basis of \$3.50 per barrel net our mill. We will continue the charge of 25¢ each for cloth sacks or \$1.00 per barrel, and paper sacks at the rate of 30¢ per barrel, making our prices at the mill \$4.50, including cloth sacks and \$3.80 per barrel including paper sacks.

We think it advisable to interest the trade as much as possible to take shipments in bulk, in which case the price will be \$3.45 per barrel, f. o. b. cars our mill. This is \$1.05 per barrel, as you will note, less than the price in cloth, which is the same differential we have always been allowing for bulk shipments.

We will use no other mill base than the Lehigh Valley, and on account of the impending advance in freight rates ordered by the Interstate Commerce Commission, we will, until further notice, quote only mill prices, as advised above. In quoting your customer, therefore, quote the mill price, making it clear to him that the ce-[fol. 1252½] ment will be invoiced at the mill price, although you can advise him that our present freight rate from Bath, Pa. to point of shipment, including war tax, is so much per barrel, as now shown in your freight rate book, but, of course, this rate is subject to change after the new tariffs are out.

We are notifying all our customers, with whom we have orders taken at the market price, of the advance. These orders are being

adjusted to the basis above mentioned, and we are explaining to our customers the reason for invoicing at the mill price. It is very likely that some of our customers will cancel their orders which they now have on file with us due to this increase in price; however, we think it advisable to have some of the business cancelled rather than continue carrying same without being able to give the customer anything definite as regards price or shipment.

We hope the above arrangement will enable us in a short time, when taking new orders from a customer, to be able to give the customer a definite price and better service as regards shipment. It is not advisable to solicit any business even at the new price until we have things swinging so that we can promise something definite as regards shipments on new orders.

The above prices, as stated, are prices for you to use when quoting a dealer. When quoting a consumer, use a differential of 20¢ per barrel, as advised you previously.

Regardless as to how or what the other manufacturers are quoting, we will adhere to the above plan until further notice.

Very truly yours, Bath Portland Cement Co. — — —,
Second Vice President. WGD/H.

[fol. 1253]

Govt. Ex. No. 195

September 30, 1920.

Mr. E. P. Comer, Boston, Mass.

Re Price Instructions

DEAR SIR: For the present we think it advisable to make a slight reduction in our price, and would therefore suggest, until further notice, that you make your prices based on \$4.00 per barrel at the mill, including cloth sacks, or \$3.30 in paper. Use this price when quoting dealers, or a price of \$4.20 when quoting consumers in case the business should be placed through a dealer. However, if an opportunity should arise where you are in a position to sell cement direct to a contractor and it will not be necessary for us to allow any dealer's differential on same, you may quote such contractor on the \$4.00 mill basis. In other words, we might as well give the contractor the advantage of the \$4.00 price if it does not interfere with any of our dealers.

Do not take any orders for over five cars at any one time, unless first getting in touch with us. Also have it thoroughly understood that any orders taken are not subject to cancellation, as same must be shipped on the date specified on their order.

[fol. 1253½] Would further suggest that you do not quote any customer this price who may still have any orders on file with us at the higher price. In this respect, however, would state that practically the only New England customer who has any business with us at the high price at the present time is Prentiss, Brooks & Co. Their order

will be completed on October 4th. All other orders in New England have either been held up, which practically means cancelled, or completed. Therefore, you may go after them all with the exception of Prentiss, Brooks & Co.; we will advise you when their order is completed.

Very truly yours, Bath Portland Cement Co. — — —,
Second Vice-President. WGDH.

[fol. 1254]

GOVT. EX. No. 196

October 2, 1920.

Mr. C. S. Nellis, Syracuse, N. Y.

DEAR SIR: Conditions have improved to such an extent that we are now willing to accept some business on the basis of \$3.50 per barrel, including cloth sacks, f. o. b. cars our mill, or \$2.80 per barrel in paper. Therefore, if any of your dealers are in need of cement at the present time, you can quote them the above prices. To consumers, quote a twenty cents per barrel differential.

Should any proposition come up relative to contracts running for the balance of this year and into next year, would suggest that you get in touch with us before quoting. However, any business for delivery during the present year you may accept as above.

We do not think it advisable to have on file at any one time orders for more than five cars with any one customer.

Very truly yours, Bath Portland Cement Co.. — — —,
Second Vice President. WGD/H.

[fol. 1254½]

GOVT. EX. No. 197

October 2, 1920.

Mr. E. P. Comer, Boston, Mass.

Re Price Instructions

DEAR SIR: Confirming conversation with you this day, conditions have improved to such an extent that we are now willing to take business from our dealers on the basis of \$3.50 per barrel, including cloth sacks, or \$2.80 in paper. Use a twenty cents differential when quoting consumers.

We do not think it advisable to have on file at any one time orders for more than five cars with any one customer.

You may accept any business which calls for shipment during the present year at the above prices; however, kindly get in touch with us before quoting on any contract requirements which will run into 1921.

Very truly yours, Bath Portland Cement Co. — — —,
Second Vice-President. WGD/H.

Bath Portland Cement Co.

Phila., Pa., December 4, 1920.

Baxter, Hyndman, Miller, Richards, Comer, Kenlon, Nellis, Sheble,
Franks.

Re Price Instructions

"Copy Sent to All Salesmen"

DEAR SIR: Effective December 3rd we have made a slight reduction in our prices, and will quote until further notice prices based on \$2.30 per barrel net our mill. When quoting prices competitive with other cement shipping districts use the basis of \$2.40 Hudson or \$2.05 Universal.

All the above prices are net mill prices to use when quoting dealers, to which you will have to add the packages and freight to destination, quoting in all cases delivered prices. In general we will use a 10¢ per barrel differential when quoting consumers, although in certain instances it will be advisable to use a larger differential, just depending upon what differential the dealers in different localities are securing. We are not changing our discount rate, the same will be maintained for the present at 10¢ per barrel for cash within ten days from date of shipment.

[fol. 1255½] When quoting prices watch carefully the competition based on Universal, as you will find many cases where the Universal prices govern.

It is not our present policy to take many contracts, although when any contract business is offered you kindly submit it to this office.

We will accept any orders for current shipment based on the above prices until further notice, provided in meeting competition the cement does not net us below \$2.00 at the mill.

We would ask that you keep us thoroughly posted relative to any information you receive on the road as regards what our competitors are doing.

If there is anything in the above instructions that is not absolutely clear to you, kindly advise us.

Very truly yours, Bath Portland Cement Co. W. G. Dutton,
Second Vice-President. WGD/H.

[fol. 1256]

GOVT. EX. No. 199

Knickerbocker Portland Cement Company, Manufacturers

Branch Sales Office, 45 Milk Street, Boston, Mass.

December 31, 1919.

Manchester & Hudson Co., 55 Point Street, Providence, R. I.

GENTLEMEN: We are pleased to quote you on "Knickerbocker" Portland Cement on the following described work, deliveries to extend to December 31st, 1920, as follows:

Five Hundred (500) barrels covering construction of new Building for Arbeka Webbing Company, Pawtucket, R. I.

Five Hundred (500) barrels covering Fred T. Ley Company in construction of Mill Building, Pawtucket, R. I.

\$2.94 per barrel, Cloth Sacks, Car Lots, F. O. B. Cars Pawtucket, R. I.

This quotation is subject to acceptance within five (5) days after formal award of the contract but is void if not accepted with- fifteen [fols. 1256½-1258½] (15) days from date. It is also subject to the terms and conditions as noted on both sides hereof, with the exception that Cloth Sacks will be repurchased at 15¢ each instead of 10¢.

Very truly yours, Knickerbocker Portland Cement Co., Inc.
J. W. Stinson, Local Manager. JWS/G.

[fol. 1259]

GOVT. EX. No. 200

July 5, 1918.

Mr. B. F. Affleck, President Portland Cement Association, Chicago, Ill.

DEAR MR. AFFLECK: Permit me to bring to your attention, as President of the Association, a matter which has for a long time been giving considerable concern to the smaller Member Companies, including ourselves, and which we think should be remedied by the Association.

I refer to the policy of some of the larger Companies in regard to the issuing of calendars and other expensive illustrated matter purporting to promote the sale of Portland Cement. I more particularly refer, however, to the matter of calendars. Some of the larger Companies are ordering these in immense quantities thereby securing a minimum price which could not be obtained by a smaller Company, necessarily ordering a more limited quantity.

Furthermore, these large Companies have such complete advertising departments and organizations for preparation of the material which goes on these catalogues that no small concern could hope to emulate them. It would cost too much money and time to prepare, or

have prepared, the illustrations necessary for such a calendar. For [fol. 1259½] example: One of the large companies has issued a circular stating "These pictures were designed by high-class artists. Further, the illustrations are so varied in character that they appeal not only to rural trade, but to people living in suburbs, towns and cities."

These larger Companies in some cases, while ostensibly agreeing to sell a large number of calendars to their dealers at the cost price, and in some cases actually thus selling them, as a matter of fact in many instances to our knowledge do not make a bona fide offer to the dealer who really does not pay anything for them.

In connection with these calendars, the dealer's business is exploited to suit each separate case, and as our salesmen write us from the road "They are valuable business getters", and they are all the more dangerous in the hands of such competitors as those who are putting them out. There is nothing that the smaller companies can do to meet this competition in kind. Therefore, what must they do to offset it? The danger is obvious.

Now, the whole spirit of the Association is, it seems to me, cooperation and endeavor to overcome inequalities and friction in competition, or, in other words, to bring about as near as possible uniform trade practices. Therefore, do you not think it would be desirable, and one of the functions of the Association, that your Editorial Department or some other Department should make up a variety of forms, illustrations and valuable advertising matter, and that the same be put in the form of calendars and other forms of circularization which they could have made in huge quantities at the [fol. 1260 & 1261] lowest possible price and then sold to the Member Companies at about cost, and thus afford the opportunity to every one, big and little, to select such type as he might desire from the great variety which your Association could prepare, and then would not this take the place of the special advertising and especially the calendar advertising which the large companies are using with such irritating effect upon the balance of the industry, and would not this to a large extent take the place of some other forms of advertising which the Association is using, and would it not more nearly hit the right spots by thus disseminating through the Member Companies and their customers and dealers a large number of valuable suggestions which would go to the people who actually use the material, or who are likely to use it?

I should be very much pleased to have your views on this subject after due consideration, and perhaps after you have had opportunity to lay it before the Executive Committee.

Very truly yours, — — —, President.

[fol. 1261½]

Govt. Ex. No. 204

Cement Manufacturers Protective Association
916 Widener Building, Philadelphia, Penna.

Feb. 21, 1918.

DEAR SIR: At the last meeting of the Cement Manufacturers Protective Association, held February 20th, we were asked to request the member companies to send us a statement of the total bags shipped for the years 1916 and 1917, that we might compile a report showing the percentage of bags returned, comparative with the total amount shipped—this to include cloth sacks only.

If you will fill in the attached slip and return, it will be greatly appreciated.

Yours very truly, Cement Manufacturers Protective Ass'n, by
Chas. W. Bacon, Secretary.

[fol. 1262]

Govt. Ex. No. 205

Cement Manufacturers Protective Association
916 Widener Building, Philadelphia, Penna.

February 26, 1918.

DEAR SIR: We would again like to call the manufacturers' attention to the small yellow card prepared for the purpose of notifying the Association of cancellations, increases, decreases, completions and expirations of contracts appearing from time to time on our monthly report.

The manufacturers have neglected to notify us of all the aforementioned changes on these yellow cards, often waiting until their monthly balance sheets are prepared to notify us of cancellations and expirations etc.

This is confusing to those who try to make our recapitulation sheet showing commitments of the different manufacturers balance with the summary for the month, because cancellations which are noted only on the manufacturers' monthly balance sheets do not appear in the summary of contracts cancelled.

These yellow cards of cancellations, increases, decreases, expirations, etc., should be in the hands of the Association by the last day of each month, that they may be noted in the printed contract report to be issued as of the first of the month.

[fol. 1262½] We would appreciate it very much if each manufacturer would give his special attention to this request, which will enable the Association to close their contract report promptly on the first of each month and will not necessitate the eliminating of contracts after that date for any cause.

Yours very truly, Cement Manufacturers Protective Assn.
C. W. Bacon, Secretary. CWB. GY.

Cement Manufacturers' Protective Association
19 West 44th Street, New York

November 13th, 1918.

To Members:

Beg to report below result of questionnaire sent to members requesting information as to whether returned bags are cleaned before being counted or vice versa:

Cleaned First and Then Counted

Alpha Portland Cement Co.
Atlas Portland Cement Co.
Bath Portland Cement Co.
Coplay Cement Mfg. Co.
Dexter Portland Cement Co.
Giant Portland Cement Co.
Glens Falls Portland Cement Co.

Hercules Cement Corporation
Knickerbocker Portland Cement Co.

*Lawrence Cement Co.
(All large shipments consisting of 2,500 or more are cleaned separately and rejected after cleaning)

[fol. 1263½] Nazareth Cement Co.

*Penn-Allen Cement Co.
Pennsylvania Cement Co.
Phoenix Portland Cement Co.
Security Cement & Lime Co.

Counted First and Then Cleaned
Allentown Portland Cement Co.
Edison Portland Cement Co.

*Lawrence Cement Co.

(Where several small shipments are placed into the wheel together sacks are sorted and note taken as to the number of worthless and foreign sacks in each shipment before passing through the machine)

Lehigh Portland Cement Co.

*Penn-Allen Cement Co.
Vulcanite Portland Cement Co.

(After the bags have passed through the machines and are taken to the bag house for refilling with cement we always find additional sacks which we have to reject. The bulk of these, however, are rejected in the bag house on account of bursting when on the packing machines. This loss has to be stood by us.)

Yours very truly, H. S. Gaines, Vice-President.

*Sorted before cleaning and again after cleaning.

[fol. 1264]

Govt. Ex. No. 207

Cement Manufacturers' Protective Association

19 West 44th Street, New York

To Members:

Because of errors in compiling the figures of some of the Member Companies in our "Summary of Past Due Accounts" as of January 1st, 1919, we are issuing corrected reports of this and the "Comparative Statement of Summaries" and will ask that you kindly disregard the original ones.

It will be noticed that we have introduced in our corrected report of "Comparative Statement of Summaries" the per cent of the whole amount due, a new feature proposed and adopted at the last meeting of the Members of the Association.

Yours very truly, M. B. Phalen, Secretary

January 29th, 1919.

[fol. 1264½]

Govt. Ex. No. 208

Cement Manufacturers' Protective Association

19 West 44th Street, New York

To Credit Managers:

At the meeting held January 23d, it was voted to include in our monthly credit reports the amounts of all accounts in Attorney's hands. Kindly include same in your future monthly reports to the Association.

Please remember that it is important that you advise the Association promptly when such accounts are paid or disposed of in any other manner, so we can send out special notices of such action to the members.

Yours very truly, H. S. Gaines, Vice-President.

[fol. 1265]

Govt. Ex. No. 209

Cement Manufacturers' Protective Association

19 West 44th Street, New York

February 6th, 1919.

To Sales Managers:

At the meeting of January 23d I was instructed to advise the members that the following subject would come up for discussion at the next meeting.

"The advisability of reporting to the Association the amount of the unshipped balance due on all contracts when contracts are cancelled with the Association by member companies upon expiration, completion or cancellation."

Yours very truly, H. S. Gaines, Vice-President.

[fol. 1265½]

Govt. Ex. No. 210

Cement Manufacturers' Protective Association
19 West 44th Street, New York

March 10th, 1919.

To Members:

At the last meeting of the Association it was voted that the following questionnaire be sent to all members:

Do you or do you not include foreign sacks in your bag returns as made to the Association?

Yours very truly, H. S. Gaines, Vice-President.

[fol. 1266]

Govt. Ex. No. 211

Cement Manufacturers' Protective Association
19 West 44th Street, New York

March 17th, 1919.

To Members:

Following is the result of questionnaire:

"Do you or do you not include foreign sacks in your bag returns to the Association?"

Allentown, No; Alpha, No; Atlas, No; Bath, No; Coplay (see Letter Below); Dexter, No; Edison, No; Giant, No; Glens Falls, No; Hercules, No; Knickerbocker, No; Lawrence, No; Lehigh, No; Nazareth, No; Penn-Allen, No; Pennsylvania, No; Phoenix, No; Security, No; Vulcanite, No.

Letter from Coplay Cement Manufacturing Co.

"In reply to your letter March 10th with reference to question regarding foreign sacks, would advise that our reports heretofore have included foreign sacks returned by our customers, in case where the quantity was very slight, such as occurs ordinarily in returns from our customers. We have some cases however, where the shipments check proportionately high in foreign bags, and any such bags, we

disregard this portion of the shipment entirely. It therefore appears that a very small percentage of the quantities heretofore reported to the Association carried a very small percentage of foreign bags, but to that extent we have included the foreign bags."

Yours very truly, H. S. Gaines, Vice-President.

[fol. 1266½]

Govt. Ex. No. 212

Cement Manufacturers' Protective Association

19 West 44th Street, New York

To Credit Managers:

May 10th, 1919.

The Credit Committee will appreciate it if the Member Companies will now send to the under-signed a complete set of the credit forms, cards, folders, etc. now in use by each Member Company, so that, if possible, standard forms can be worked out to the advantage of members of the Association.

Yours very truly, H. S. Gaines, Vice-President.

[fol. 1267]

Govt. Ex. No. 213

Cement Manufacturers Protective Association

19 West 44th Street, New York

To Credit Managers:

May nineteenth, Nineteen Nineteen.

Referring to circular of May 10th, in which it was requested that Member Companies send to this office a complete set of credit forms, cards, folders, etc. now in use by each Member Company, so that, if possible, standard forms can be worked out: We have only received replies from the following Companies:

Phoenix Portland Cement Company.

Giant Portland Cement Company.

Helderberg Cement Company.

Vulcanite Portland Cement Company.

Lehigh Portland Cement Company.

Inasmuch as the Credit Committee desires to hold a meeting next week, they will appreciate it if the other Companies will send in these forms at an early date.

Yours very truly, H. S. Gaines, Vice President.

[fol. 1267½]

Govt. Ex. No. 214

Cement Manufacturers Protective Association

19 West 44th Street, New York

July 11th, 1919.

To Members:

The following letter has been received from the Dexter Portland Cement Co.:

"On looking at the June Statistics we find that our figures are wrong and on looking over our report sent you found that the figures given you for 1918 did not include shipments for other member Companies. The report should have been sent you as follows:

First six months 1918,	341,296	+			
" " " 1919,	411,235	+	+		
June 1918,	82,163	+	+	+	
" 1919,	103,311	+	+	+	+
	+ 55,147	shipped for member Company.			
	+ + 140,252	"	"	"	"
	+ + + 26,279	"	"	"	"
	+ + + + 25,023	"	"	"	"

This, of course makes the percentages wrong as six months and June should both show 25% instead of 50% and 84% respectively."

Yours very truly, Cement Manufacturers Protective Ass'n.
M. B. Phalen, Secretary.

[fol. 1268]

Govt. Ex. No. 215

Cement Manufacturers Protective Association

19 West 44th Street, New York

July twenty-second, Nineteen Nineteen.

To Sales Managers:

At the regular monthly meeting of the Association held here on Thursday, July 17th, 1919, the following resolution was passed:

"That in making contract reports we give the dealer's home town as well as the delivery point."

Yours very truly, H. S. Gaines, Vice-President.